

SENATE BILL

No. 1129

Introduced by Senator Monning

February 17, 2016

An act to amend Section 647 of the Penal Code, ~~and to repeal Section 13201.5 of the Vehicle Code,~~ relating to crimes.

LEGISLATIVE COUNSEL'S DIGEST

SB 1129, as amended, Monning. Prostitution: sanctions.

Existing law provides that a person who solicits or agrees to engage in or engages in lewd or dissolute conduct in public, as specified, or an act of prostitution is guilty of disorderly conduct, a misdemeanor. If a defendant is convicted a 2nd time of an act of prostitution, as specified, existing law requires the defendant to be imprisoned in a county jail for a period of not less than 45 days, as specified, and if the defendant is convicted 3 or more times, that minimum period of imprisonment is not less than 90 days, as specified.

~~Existing law also authorizes a court to suspend, for not more than 30 days, the privilege of a person to operate a motor vehicle if a defendant is convicted of one of the disorderly conduct crimes described above, as specified, and the crime was committed within 1,000 feet of a private residence and with the use of a private vehicle.~~

~~This bill would delete those additional sanctions mandatory minimum terms of incarceration imposed for engaging in prohibited acts relating to prostitution.~~

This bill would incorporate additional changes to Section 647 of the Penal Code, proposed by SB 420, SB 1322, and AB 1708, that would become operative only if this bill and one or more of those other bills

are enacted and become effective January 1, 2017, and this bill is chaptered last.

Vote: majority. Appropriation: no. Fiscal committee: no.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Section 647 of the Penal Code is amended to
2 read:

3 647. Except as provided in subdivision-~~(k)~~, (l), every person
4 who commits any of the following acts is guilty of disorderly
5 conduct, a misdemeanor:

6 (a) Who solicits anyone to engage in or who engages in lewd
7 or dissolute conduct in any public place or in any place open to
8 the public or exposed to public view.

9 (b) Who solicits or who agrees to engage in or who engages in
10 any act of prostitution. A person agrees to engage in an act of
11 prostitution when, with specific intent to so engage, he or she
12 manifests an acceptance of an offer or solicitation to so engage,
13 regardless of whether the offer or solicitation was made by a person
14 who also possessed the specific intent to engage in prostitution.
15 An agreement to engage in an act of prostitution does not constitute
16 a violation of this subdivision unless some act, in addition to the
17 agreement, is done within this state in furtherance of the
18 commission of an act of prostitution by the person agreeing to
19 engage in that act. As used in this subdivision, "prostitution"
20 includes any lewd act between persons for money or other
21 consideration.

22 (c) Who accosts other persons in any public place or in any
23 place open to the public for the purpose of begging or soliciting
24 alms.

25 (d) Who loiters in or about any toilet open to the public for the
26 purpose of engaging in or soliciting any lewd or lascivious or any
27 unlawful act.

28 (e) Who lodges in any building, structure, vehicle, or place,
29 whether public or private, without the permission of the owner or
30 person entitled to the possession or in control of it.

31 (f) Who is found in any public place under the influence of
32 intoxicating liquor, any drug, controlled substance, toluene, or any
33 combination of any intoxicating liquor, drug, controlled substance,

1 or toluene, in a condition that he or she is unable to exercise care
2 for his or her own safety or the safety of others, or by reason of
3 his or her being under the influence of intoxicating liquor, any
4 drug, controlled substance, toluene, or any combination of any
5 intoxicating liquor, drug, or toluene, interferes with or obstructs
6 or prevents the free use of any street, sidewalk, or other public
7 way.

8 (g) If a person has violated subdivision (f), a peace officer, if
9 he or she is reasonably able to do so, shall place the person, or
10 cause him or her to be placed, in civil protective custody. The
11 person shall be taken to a facility, designated pursuant to Section
12 5170 of the Welfare and Institutions Code, for the 72-hour
13 treatment and evaluation of inebriates. A peace officer may place
14 a person in civil protective custody with that kind and degree of
15 force that would be lawful were he or she effecting an arrest for a
16 misdemeanor without a warrant. A person who has been placed
17 in civil protective custody shall not thereafter be subject to any
18 criminal prosecution or juvenile court proceeding based on the
19 facts giving rise to this placement. This subdivision does not apply
20 to the following persons:

21 (1) A person who is under the influence of any drug, or under
22 the combined influence of intoxicating liquor and any drug.

23 (2) A person who a peace officer has probable cause to believe
24 has committed any felony, or who has committed any misdemeanor
25 in addition to subdivision (f).

26 (3) A person who a peace officer in good faith believes will
27 attempt escape or will be unreasonably difficult for medical
28 personnel to control.

29 (h) Who loiters, prowls, or wanders upon the private property
30 of another, at any time, without visible or lawful business with the
31 owner or occupant. As used in this subdivision, “loiter” means to
32 delay or linger without a lawful purpose for being on the property
33 and for the purpose of committing a crime as opportunity may be
34 discovered.

35 (i) Who, while loitering, prowling, or wandering upon the private
36 property of another, at any time, peeks in the door or window of
37 any inhabited building or structure, without visible or lawful
38 business with the owner or occupant.

39 (j) (1) A person who looks through a hole or opening, into, or
40 otherwise views, by means of any instrumentality, including, but

1 not limited to, a periscope, telescope, binoculars, camera, motion
2 picture camera, camcorder, or mobile phone, the interior of a
3 bedroom, bathroom, changing room, fitting room, dressing room,
4 or tanning booth, or the interior of any other area in which the
5 occupant has a reasonable expectation of privacy, with the intent
6 to invade the privacy of a person or persons inside. This subdivision
7 does not apply to those areas of a private business used to count
8 currency or other negotiable instruments.

9 (2) A person who uses a concealed camcorder, motion picture
10 camera, or photographic camera of any type, to secretly videotape,
11 film, photograph, or record by electronic means, another,
12 identifiable person under or through the clothing being worn by
13 that other person, for the purpose of viewing the body of, or the
14 undergarments worn by, that other person, without the consent or
15 knowledge of that other person, with the intent to arouse, appeal
16 to, or gratify the lust, passions, or sexual desires of that person and
17 invade the privacy of that other person, under circumstances in
18 which the other person has a reasonable expectation of privacy.

19 (3) (A) A person who uses a concealed camcorder, motion
20 picture camera, or photographic camera of any type, to secretly
21 videotape, film, photograph, or record by electronic means, another,
22 identifiable person who may be in a state of full or partial undress,
23 for the purpose of viewing the body of, or the undergarments worn
24 by, that other person, without the consent or knowledge of that
25 other person, in the interior of a bedroom, bathroom, changing
26 room, fitting room, dressing room, or tanning booth, or the interior
27 of any other area in which that other person has a reasonable
28 expectation of privacy, with the intent to invade the privacy of that
29 other person.

30 (B) Neither of the following is a defense to the crime specified
31 in this paragraph:

32 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
33 employer, employee, or business partner or associate of the victim,
34 or an agent of any of these.

35 (ii) The victim was not in a state of full or partial undress.

36 (4) (A) A person who intentionally distributes the image of the
37 intimate body part or parts of another identifiable person, or an
38 image of the person depicted engaged in an act of sexual
39 intercourse, sodomy, oral copulation, sexual penetration, or an
40 image of masturbation by the person depicted or in which the

1 person depicted participates, under circumstances in which the
2 persons agree or understand that the image shall remain private,
3 the person distributing the image knows or should know that
4 distribution of the image will cause serious emotional distress, and
5 the person depicted suffers that distress.

6 (B) A person intentionally distributes an image described in
7 subparagraph (A) when he or she personally distributes the image,
8 or arranges, specifically requests, or intentionally causes another
9 person to distribute that image.

10 (C) As used in this paragraph, “intimate body part” means any
11 portion of the genitals, the anus and in the case of a female, also
12 includes any portion of the breasts below the top of the areola, that
13 is either uncovered or clearly visible through clothing.

14 (D) It shall not be a violation of this paragraph to distribute an
15 image described in subparagraph (A) if any of the following
16 applies:

17 (i) The distribution is made in the course of reporting an
18 unlawful activity.

19 (ii) The distribution is made in compliance with a subpoena or
20 other court order for use in a legal proceeding.

21 (iii) The distribution is made in the course of a lawful public
22 proceeding.

23 (5) This subdivision does not preclude punishment under any
24 section of law providing for greater punishment.

25 *(k) In addition to any punishment prescribed by this section, a*
26 *court may suspend, for not more than 30 days, the privilege of the*
27 *person to operate a motor vehicle pursuant to Section 13201.5 of*
28 *the Vehicle Code for any violation of subdivision (b) that was*
29 *committed within 1,000 feet of a private residence and with the*
30 *use of a vehicle. In lieu of the suspension, the court may order a*
31 *person’s privilege to operate a motor vehicle restricted, for not*
32 *more than six months, to necessary travel to and from the person’s*
33 *place of employment or education. If driving a motor vehicle is*
34 *necessary to perform the duties of the person’s employment, the*
35 *court may also allow the person to drive in that person’s scope of*
36 *employment.*

37 ~~(k)~~

38 (l) (1) A second or subsequent violation of subdivision (j) is
39 punishable by imprisonment in a county jail not exceeding one

1 year, or by a fine not exceeding two thousand dollars (\$2,000), or
2 by both that fine and imprisonment.

3 (2) If the victim of a violation of subdivision (j) was a minor at
4 the time of the offense, the violation is punishable by imprisonment
5 in a county jail not exceeding one year, or by a fine not exceeding
6 two thousand dollars (\$2,000), or by both that fine and
7 imprisonment.

8 ~~(t)~~

9 (m) (1) If a crime is committed in violation of subdivision (b)
10 and the person who was solicited was a minor at the time of the
11 offense, and if the defendant knew or should have known that the
12 person who was solicited was a minor at the time of the offense,
13 the violation is punishable by imprisonment in a county jail for
14 not less than two days and not more than one year, or by a fine not
15 exceeding ten thousand dollars (\$10,000), or by both that fine and
16 imprisonment.

17 (2) The court may, in unusual cases, when the interests of justice
18 are best served, reduce or eliminate the mandatory two days of
19 imprisonment in a county jail required by this subdivision. If the
20 court reduces or eliminates the mandatory two days' imprisonment,
21 the court shall specify the reason on the record.

22 ~~SEC. 2. Section 13201.5 of the Vehicle Code is repealed.~~

23 *SEC. 1.1. Section 647 of the Penal Code is amended to read:*

24 647. Except as provided in subdivision (l), every person who
25 commits any of the following acts is guilty of disorderly conduct,
26 a misdemeanor:

27 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
28 *engages in lewd or dissolute conduct in any public place or in any*
29 *place open to the public or exposed to public view.*

30 (b) (1) *An individual who solicits, or who agrees to engage in,*
31 *or who engages in, any act of prostitution with the intent to receive*
32 *compensation, money, or anything of value from another person.*
33 *An individual agrees to engage in an act of prostitution when, with*
34 *specific intent to so engage, he or she manifests an acceptance of*
35 *an offer or solicitation by another person to so engage, regardless*
36 *of whether the offer or solicitation was made by a person who also*
37 *possessed the specific intent to engage in an act of prostitution.*

38 (2) *An individual who solicits, or who agrees to engage in, or*
39 *who engages in, any act of prostitution with another person who*
40 *is 18 years of age or older in exchange for the individual providing*

1 *compensation, money, or anything of value to the other person.*
2 *An individual agrees to engage in an act of prostitution when, with*
3 *specific intent to so engage, he or she manifests an acceptance of*
4 *an offer or solicitation by another person who is 18 years of age*
5 *or older to so engage, regardless of whether the offer or solicitation*
6 *was made by a person who also possessed the specific intent to*
7 *engage in an act of prostitution.*

8 (3) *An individual who solicits, or who agrees to engage in, or*
9 *who engages in, any act of prostitution with another person who*
10 *is a minor in exchange for the individual providing compensation,*
11 *money, or anything of value to the minor. An individual agrees to*
12 *engage in an act of prostitution when, with specific intent to so*
13 *engage, he or she manifests an acceptance of an offer or*
14 *solicitation by someone who is a minor to so engage, regardless*
15 *of whether the offer or solicitation was made by a minor who also*
16 *possessed the specific intent to engage in an act of prostitution.*

17 ~~(b) Who solicits or who agrees to engage in or who engages in~~
18 ~~any act of prostitution. A person agrees to engage in an act of~~
19 ~~prostitution when, with specific intent to so engage, he or she~~
20 ~~manifests an~~

21 (4) *A manifestation of acceptance of an offer or solicitation to*
22 *so engage, regardless of whether the offer or solicitation was made*
23 *by a person who also possessed the specific intent to engage in*
24 *prostitution. No agreement to engage in an act of prostitution shall*
25 *does not constitute a violation of this subdivision unless some act,*
26 *in addition to the agreement, manifestation of acceptance is done*
27 *within this state in furtherance of the commission of an the act of*
28 *prostitution by the person agreeing manifesting an acceptance of*
29 *an offer or solicitation to engage in that act. As used in this*
30 *subdivision, “prostitution” includes any lewd act between persons*
31 *for money or other consideration.*

32 (c) *Who accosts other persons in any public place or in any*
33 *place open to the public for the purpose of begging or soliciting*
34 *alms.*

35 (d) *Who loiters in or about any toilet open to the public for the*
36 *purpose of engaging in or soliciting any lewd or lascivious or any*
37 *unlawful act.*

38 (e) *Who lodges in any building, structure, vehicle, or place,*
39 *whether public or private, without the permission of the owner or*
40 *person entitled to the possession or in control of it.*

(f) Who is found in any public place under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, controlled substance, or toluene, in a condition that he or she is unable to exercise care for his or her own safety or the safety of others, or by reason of his or her being under the influence of intoxicating liquor, any drug, controlled substance, toluene, or any combination of any intoxicating liquor, drug, or toluene, interferes with or obstructs or prevents the free use of any street, sidewalk, or other public way.

(g) ~~When~~ If a person has violated subdivision (f), a peace officer, if he or she is reasonably able to do so, shall place the person, or cause him or her to be placed, in civil protective custody. The person shall be taken to a facility, designated pursuant to Section 5170 of the Welfare and Institutions Code, for the 72-hour treatment and evaluation of inebriates. A peace officer may place a person in civil protective custody with that kind and degree of force ~~which~~ that would be lawful were he or she effecting an arrest for a misdemeanor without a warrant. A person who has been placed in civil protective custody shall not thereafter be subject to any criminal prosecution or juvenile court proceeding based on the facts giving rise to this placement. This subdivision ~~shall~~ does not apply to the following persons:

(1) ~~Any~~ A person who is under the influence of any drug, or under the combined influence of intoxicating liquor and any drug.

(2) ~~Any~~ A person who a peace officer has probable cause to believe has committed any felony, or who has committed any misdemeanor in addition to subdivision (f).

(3) ~~Any~~ A person who a peace officer in good faith believes will attempt escape or will be unreasonably difficult for medical personnel to control.

(h) Who loiters, prowls, or wanders upon the private property of another, at any time, without visible or lawful business with the owner or occupant. As used in this subdivision, “loiter” means to delay or linger without a lawful purpose for being on the property and for the purpose of committing a crime as opportunity may be discovered.

(i) Who, while loitering, prowling, or wandering upon the private property of another, at any time, peeks in the door or window of

1 any inhabited building or structure, without visible or lawful
2 business with the owner or occupant.

3 (j) (1) ~~Any~~A person who looks through a hole or opening, into,
4 or otherwise views, by means of any instrumentality, including,
5 but not limited to, a periscope, telescope, binoculars, camera,
6 motion picture camera, camcorder, or mobile phone, the interior
7 of a bedroom, bathroom, changing room, fitting room, dressing
8 room, or tanning booth, or the interior of any other area in which
9 the occupant has a reasonable expectation of privacy, with the
10 intent to invade the privacy of a person or persons inside. This
11 subdivision ~~shall~~ *does* not apply to those areas of a private business
12 used to count currency or other negotiable instruments.

13 (2) ~~Any~~A person who uses a concealed camcorder, motion
14 picture camera, or photographic camera of any type, to secretly
15 videotape, film, photograph, or record by electronic means, another,
16 identifiable person under or through the clothing being worn by
17 that other person, for the purpose of viewing the body of, or the
18 undergarments worn by, that other person, without the consent or
19 knowledge of that other person, with the intent to arouse, appeal
20 to, or gratify the lust, passions, or sexual desires of that person and
21 invade the privacy of that other person, under circumstances in
22 which the other person has a reasonable expectation of privacy.

23 (3) (A) ~~Any~~A person who uses a concealed camcorder, motion
24 picture camera, or photographic camera of any type, to secretly
25 videotape, film, photograph, or record by electronic means, another,
26 identifiable person who may be in a state of full or partial undress,
27 for the purpose of viewing the body of, or the undergarments worn
28 by, that other person, without the consent or knowledge of that
29 other person, in the interior of a bedroom, bathroom, changing
30 room, fitting room, dressing room, or tanning booth, or the interior
31 of any other area in which that other person has a reasonable
32 expectation of privacy, with the intent to invade the privacy of that
33 other person.

34 (B) Neither of the following is a defense to the crime specified
35 in this paragraph:

36 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
37 employer, employee, or business partner or associate of the victim,
38 or an agent of any of these.

39 (ii) The victim was not in a state of full or partial undress.

1 (4) (A) ~~Any~~ A person who intentionally distributes the image
2 of the intimate body part or parts of another identifiable person,
3 or an image of the person depicted engaged in an act of sexual
4 intercourse, sodomy, oral copulation, sexual penetration, or an
5 image of masturbation by the person depicted or in which the
6 person depicted participates, under circumstances in which the
7 persons agree or understand that the image shall remain private,
8 the person distributing the image knows or should know that
9 distribution of the image will cause serious emotional distress, and
10 the person depicted suffers that distress.

11 (B) A person intentionally distributes an image described in
12 subparagraph (A) when he or she personally distributes the image,
13 or arranges, specifically requests, or intentionally causes another
14 person to distribute that image.

15 (C) As used in this paragraph, “intimate body part” means any
16 portion of the genitals, the anus and in the case of a female, also
17 includes any portion of the breasts below the top of the areola, that
18 is either uncovered or clearly visible through clothing.

19 (D) It shall not be a violation of this paragraph to distribute an
20 image described in subparagraph (A) if any of the following
21 applies:

22 (i) The distribution is made in the course of reporting an
23 unlawful activity.

24 (ii) The distribution is made in compliance with a subpoena or
25 other court order for use in a legal proceeding.

26 (iii) The distribution is made in the course of a lawful public
27 proceeding.

28 (5) This subdivision ~~shall~~ *does* not preclude punishment under
29 any section of law providing for greater punishment.

30 ~~(k) In any accusatory pleading charging a violation of~~
31 ~~subdivision (b), if the defendant has been once previously convicted~~
32 ~~of a violation of that subdivision, the previous conviction shall be~~
33 ~~charged in the accusatory pleading. If the previous conviction is~~
34 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
35 ~~a court trial, or is admitted by the defendant, the defendant shall~~
36 ~~be imprisoned in a county jail for a period of not less than 45 days~~
37 ~~and shall not be eligible for release upon completion of sentence,~~
38 ~~on probation, on parole, on work furlough or work release, or on~~
39 ~~any other basis until he or she has served a period of not less than~~
40 ~~45 days in a county jail. In all cases in which probation is granted,~~

1 ~~the court shall require as a condition thereof that the person be~~
2 ~~confined in a county jail for at least 45 days. In no event does the~~
3 ~~court have the power to absolve a person who violates this~~
4 ~~subdivision from the obligation of spending at least 45 days in~~
5 ~~confinement in a county jail.~~

6 ~~In any accusatory pleading charging a violation of subdivision~~
7 ~~(b), if the defendant has been previously convicted two or more~~
8 ~~times of a violation of that subdivision, each of these previous~~
9 ~~convictions shall be charged in the accusatory pleading. If two or~~
10 ~~more of these previous convictions are found to be true by the jury,~~
11 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
12 ~~by the defendant, the defendant shall be imprisoned in a county~~
13 ~~jail for a period of not less than 90 days and shall not be eligible~~
14 ~~for release upon completion of sentence, on probation, on parole,~~
15 ~~on work furlough or work release, or on any other basis until he~~
16 ~~or she has served a period of not less than 90 days in a county jail.~~
17 ~~In all cases in which probation is granted, the court shall require~~
18 ~~as a condition thereof that the person be confined in a county jail~~
19 ~~for at least 90 days. In no event does the court have the power to~~
20 ~~absolve a person who violates this subdivision from the obligation~~
21 ~~of spending at least 90 days in confinement in a county jail.~~

22 ~~In~~

23 *(k)* *In* addition to any punishment prescribed by this section, a
24 court may suspend, for not more than 30 days, the privilege of the
25 person to operate a motor vehicle pursuant to Section 13201.5 of
26 the Vehicle Code for any violation of subdivision (b) that was
27 committed within 1,000 feet of a private residence and with the
28 use of a vehicle. In lieu of the suspension, the court may order a
29 person's privilege to operate a motor vehicle restricted, for not
30 more than six months, to necessary travel to and from the person's
31 place of employment or education. If driving a motor vehicle is
32 necessary to perform the duties of the person's employment, the
33 court may also allow the person to drive in that person's scope of
34 employment.

35 *(l)* (1) A second or subsequent violation of subdivision (j) is
36 punishable by imprisonment in a county jail not exceeding one
37 year, or by a fine not exceeding two thousand dollars (\$2,000), or
38 by both that fine and imprisonment.

39 (2) If the victim of a violation of subdivision (j) was a minor at
40 the time of the offense, the violation is punishable by imprisonment

1 in a county jail not exceeding one year, or by a fine not exceeding
2 two thousand dollars (\$2,000), or by both that fine and
3 imprisonment.

4 (m) (1) If a crime is committed in violation of subdivision (b)
5 and the person who was solicited was a minor at the time of the
6 offense, and if the defendant knew or should have known that the
7 person who was solicited was a minor at the time of the offense,
8 the violation is punishable by imprisonment in a county jail for
9 not less than two days and not more than one year, or by a fine not
10 exceeding ten thousand dollars (\$10,000), or by both that fine and
11 imprisonment.

12 (2) The court may, in unusual cases, when the interests of justice
13 are best served, reduce or eliminate the mandatory two days of
14 imprisonment in a county jail required by this subdivision. If the
15 court reduces or eliminates the mandatory two days' imprisonment,
16 the court shall specify the reason on the record.

17 *SEC. 1.2. Section 647 of the Penal Code is amended to read:*

18 647. Except as provided in *paragraph (2) of subdivision (b)*
19 *and subdivision (l)*, every person who commits any of the following
20 acts is guilty of disorderly conduct, a misdemeanor:

21 (a) Who solicits anyone to engage in or who engages in lewd
22 or dissolute conduct in any public place or in any place open to
23 the public or exposed to public view.

24 (b) (1) Who solicits or who agrees to engage in or who engages
25 in any act of prostitution. A person agrees to engage in an act of
26 prostitution when, with specific intent to so engage, he or she
27 manifests an acceptance of an offer or solicitation to so engage,
28 regardless of whether the offer or solicitation was made by a person
29 who also possessed the specific intent to engage in prostitution.
30 ~~No~~ An agreement to engage in an act of prostitution ~~shall~~ *does not*
31 constitute a violation of this subdivision unless some act, in
32 addition to the agreement, is done within this state in furtherance
33 of the commission of an act of prostitution by the person agreeing
34 to engage in that act. As used in this subdivision, "prostitution"
35 includes any lewd act between persons for money or other
36 consideration.

37 (2) *Notwithstanding paragraph (1), this subdivision does not*
38 *apply to a child under 18 years of age who is alleged to have*
39 *engaged in conduct to receive money or other consideration that*
40 *would, if committed by an adult, violate this subdivision. A*

1 *commercially exploited child under this paragraph may be*
2 *adjudged a dependent child of the court pursuant to paragraph*
3 *(2) of subdivision (b) of Section 300 of the Welfare and Institutions*
4 *Code and may be taken into temporary custody pursuant to*
5 *subdivision (a) of Section 305 of the Welfare and Institutions Code,*
6 *if the conditions allowing temporary custody without warrant are*
7 *met.*

8 (c) Who accosts other persons in any public place or in any
9 place open to the public for the purpose of begging or soliciting
10 alms.

11 (d) Who loiters in or about any toilet open to the public for the
12 purpose of engaging in or soliciting any lewd or lascivious or any
13 unlawful act.

14 (e) Who lodges in any building, structure, vehicle, or place,
15 whether public or private, without the permission of the owner or
16 person entitled to the possession or in control of it.

17 (f) Who is found in any public place under the influence of
18 intoxicating liquor, any drug, controlled substance, toluene, or any
19 combination of any intoxicating liquor, drug, controlled substance,
20 or toluene, in a condition that he or she is unable to exercise care
21 for his or her own safety or the safety of others, or by reason of
22 his or her being under the influence of intoxicating liquor, any
23 drug, controlled substance, toluene, or any combination of any
24 intoxicating liquor, drug, or toluene, interferes with or obstructs
25 or prevents the free use of any street, sidewalk, or other public
26 way.

27 (g) ~~When~~ *If* a person has violated subdivision (f), a peace officer,
28 if he or she is reasonably able to do so, shall place the person, or
29 cause him or her to be placed, in civil protective custody. The
30 person shall be taken to a facility, designated pursuant to Section
31 5170 of the Welfare and Institutions Code, for the 72-hour
32 treatment and evaluation of inebriates. A peace officer may place
33 a person in civil protective custody with that kind and degree of
34 force ~~which~~ *that* would be lawful were he or she effecting an arrest
35 for a misdemeanor without a warrant. A person who has been
36 placed in civil protective custody shall not thereafter be subject to
37 any criminal prosecution or juvenile court proceeding based on
38 the facts giving rise to this placement. This subdivision ~~shall~~ *does*
39 not apply to the following persons:

1 (1) ~~Any~~A person who is under the influence of any drug, or
2 under the combined influence of intoxicating liquor and any drug.

3 (2) ~~Any~~A person who a peace officer has probable cause to
4 believe has committed any felony, or who has committed any
5 misdemeanor in addition to subdivision (f).

6 (3) ~~Any~~A person who a peace officer in good faith believes
7 will attempt escape or will be unreasonably difficult for medical
8 personnel to control.

9 (h) Who loiters, prowls, or wanders upon the private property
10 of another, at any time, without visible or lawful business with the
11 owner or occupant. As used in this subdivision, “loiter” means to
12 delay or linger without a lawful purpose for being on the property
13 and for the purpose of committing a crime as opportunity may be
14 discovered.

15 (i) Who, while loitering, prowling, or wandering upon the private
16 property of another, at any time, peeks in the door or window of
17 any inhabited building or structure, without visible or lawful
18 business with the owner or occupant.

19 (j) (1) ~~Any~~A person who looks through a hole or opening, into,
20 or otherwise views, by means of any instrumentality, including,
21 but not limited to, a periscope, telescope, binoculars, camera,
22 motion picture camera, camcorder, or mobile phone, the interior
23 of a bedroom, bathroom, changing room, fitting room, dressing
24 room, or tanning booth, or the interior of any other area in which
25 the occupant has a reasonable expectation of privacy, with the
26 intent to invade the privacy of a person or persons inside. This
27 subdivision ~~shall~~ *does* not apply to those areas of a private business
28 used to count currency or other negotiable instruments.

29 (2) ~~Any~~A person who uses a concealed camcorder, motion
30 picture camera, or photographic camera of any type, to secretly
31 videotape, film, photograph, or record by electronic means, another,
32 identifiable person under or through the clothing being worn by
33 that other person, for the purpose of viewing the body of, or the
34 undergarments worn by, that other person, without the consent or
35 knowledge of that other person, with the intent to arouse, appeal
36 to, or gratify the lust, passions, or sexual desires of that person and
37 invade the privacy of that other person, under circumstances in
38 which the other person has a reasonable expectation of privacy.

39 (3) (A) ~~Any~~A person who uses a concealed camcorder, motion
40 picture camera, or photographic camera of any type, to secretly

1 videotape, film, photograph, or record by electronic means, another,
2 identifiable person who may be in a state of full or partial undress,
3 for the purpose of viewing the body of, or the undergarments worn
4 by, that other person, without the consent or knowledge of that
5 other person, in the interior of a bedroom, bathroom, changing
6 room, fitting room, dressing room, or tanning booth, or the interior
7 of any other area in which that other person has a reasonable
8 expectation of privacy, with the intent to invade the privacy of that
9 other person.

10 (B) Neither of the following is a defense to the crime specified
11 in this paragraph:

12 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
13 employer, employee, or business partner or associate of the victim,
14 or an agent of any of these.

15 (ii) The victim was not in a state of full or partial undress.

16 (4) (A) ~~Any~~ A person who intentionally distributes the image
17 of the intimate body part or parts of another identifiable person,
18 or an image of the person depicted engaged in an act of sexual
19 intercourse, sodomy, oral copulation, sexual penetration, or an
20 image of masturbation by the person depicted or in which the
21 person depicted participates, under circumstances in which the
22 persons agree or understand that the image shall remain private,
23 the person distributing the image knows or should know that
24 distribution of the image will cause serious emotional distress, and
25 the person depicted suffers that distress.

26 (B) A person intentionally distributes an image described in
27 subparagraph (A) when he or she personally distributes the image,
28 or arranges, specifically requests, or intentionally causes another
29 person to distribute that image.

30 (C) As used in this paragraph, “intimate body part” means any
31 portion of the genitals, the anus and in the case of a female, also
32 includes any portion of the breasts below the top of the areola, that
33 is either uncovered or clearly visible through clothing.

34 (D) It shall not be a violation of this paragraph to distribute an
35 image described in subparagraph (A) if any of the following
36 applies:

37 (i) The distribution is made in the course of reporting an
38 unlawful activity.

39 (ii) The distribution is made in compliance with a subpoena or
40 other court order for use in a legal proceeding.

1 (iii) The distribution is made in the course of a lawful public
2 proceeding.

3 (5) This subdivision ~~shall~~ *does* not preclude punishment under
4 any section of law providing for greater punishment.

5 ~~(k) In any accusatory pleading charging a violation of~~
6 ~~subdivision (b), if the defendant has been once previously convicted~~
7 ~~of a violation of that subdivision, the previous conviction shall be~~
8 ~~charged in the accusatory pleading. If the previous conviction is~~
9 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
10 ~~a court trial, or is admitted by the defendant, the defendant shall~~
11 ~~be imprisoned in a county jail for a period of not less than 45 days~~
12 ~~and shall not be eligible for release upon completion of sentence,~~
13 ~~on probation, on parole, on work furlough or work release, or on~~
14 ~~any other basis until he or she has served a period of not less than~~
15 ~~45 days in a county jail. In all cases in which probation is granted,~~
16 ~~the court shall require as a condition thereof that the person be~~
17 ~~confined in a county jail for at least 45 days. In no event does the~~
18 ~~court have the power to absolve a person who violates this~~
19 ~~subdivision from the obligation of spending at least 45 days in~~
20 ~~confinement in a county jail.~~

21 ~~In any accusatory pleading charging a violation of subdivision~~
22 ~~(b), if the defendant has been previously convicted two or more~~
23 ~~times of a violation of that subdivision, each of these previous~~
24 ~~convictions shall be charged in the accusatory pleading. If two or~~
25 ~~more of these previous convictions are found to be true by the jury,~~
26 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
27 ~~by the defendant, the defendant shall be imprisoned in a county~~
28 ~~jail for a period of not less than 90 days and shall not be eligible~~
29 ~~for release upon completion of sentence, on probation, on parole,~~
30 ~~on work furlough or work release, or on any other basis until he~~
31 ~~or she has served a period of not less than 90 days in a county jail.~~
32 ~~In all cases in which probation is granted, the court shall require~~
33 ~~as a condition thereof that the person be confined in a county jail~~
34 ~~for at least 90 days. In no event does the court have the power to~~
35 ~~absolve a person who violates this subdivision from the obligation~~
36 ~~of spending at least 90 days in confinement in a county jail.~~

37 ~~In~~

38 *(k) In* addition to any punishment prescribed by this section, a
39 court may suspend, for not more than 30 days, the privilege of the
40 person to operate a motor vehicle pursuant to Section 13201.5 of

1 the Vehicle Code for any violation of subdivision (b) that was
2 committed within 1,000 feet of a private residence and with the
3 use of a vehicle. In lieu of the suspension, the court may order a
4 person's privilege to operate a motor vehicle restricted, for not
5 more than six months, to necessary travel to and from the person's
6 place of employment or education. If driving a motor vehicle is
7 necessary to perform the duties of the person's employment, the
8 court may also allow the person to drive in that person's scope of
9 employment.

10 (l) (1) A second or subsequent violation of subdivision (j) is
11 punishable by imprisonment in a county jail not exceeding one
12 year, or by a fine not exceeding two thousand dollars (\$2,000), or
13 by both that fine and imprisonment.

14 (2) If the victim of a violation of subdivision (j) was a minor at
15 the time of the offense, the violation is punishable by imprisonment
16 in a county jail not exceeding one year, or by a fine not exceeding
17 two thousand dollars (\$2,000), or by both that fine and
18 imprisonment.

19 (m) (1) If a crime is committed in violation of subdivision (b)
20 and the person who was solicited was a minor at the time of the
21 offense, and if the defendant knew or should have known that the
22 person who was solicited was a minor at the time of the offense,
23 the violation is punishable by imprisonment in a county jail for
24 not less than two days and not more than one year, or by a fine not
25 exceeding ten thousand dollars (\$10,000), or by both that fine and
26 imprisonment.

27 (2) The court may, in unusual cases, when the interests of justice
28 are best served, reduce or eliminate the mandatory two days of
29 imprisonment in a county jail required by this subdivision. If the
30 court reduces or eliminates the mandatory two days' imprisonment,
31 the court shall specify the reason on the record.

32 *SEC. 1.3. Section 647 of the Penal Code is amended to read:*

33 647. Except as provided in subdivision (l), ~~every~~ a person who
34 commits any of the following acts is guilty of disorderly conduct,
35 a misdemeanor:

36 (a) ~~Who~~ *An individual who* solicits anyone to engage in or who
37 engages in lewd or dissolute conduct in any public place or in any
38 place open to the public or exposed to public view.

39 (b) (1) *An individual who solicits, or who agrees to engage in,*
40 *or who engages in, any act of prostitution with another person*

1 *with the intent to receive compensation, money, or anything of*
2 *value, and with the specific intent to so engage.*

3 (2) *An individual who solicits, or who agrees to engage in, or*
4 *who engages in, any act of prostitution with another person who*
5 *is 18 years of age or older in exchange for the individual providing*
6 *compensation, money, or anything of value to the other person.*
7 *An individual agrees to engage in an act of prostitution when, with*
8 *specific intent to so engage, he or she manifests an acceptance of*
9 *an offer or solicitation by another person who is 18 years of age*
10 *or older to so engage, regardless of whether the offer or solicitation*
11 *was made by a person who also possessed the specific intent to*
12 *engage in an act of prostitution.*

13 (3) *An individual who solicits, or who agrees to engage in, or*
14 *who engages in, any act of prostitution with another person who*
15 *is a minor in exchange for the individual providing compensation,*
16 *money, or anything of value to the minor. An individual agrees to*
17 *engage in an act of prostitution when, with specific intent to so*
18 *engage, he or she manifests an acceptance of an offer or*
19 *solicitation by someone who is a minor to so engage, regardless*
20 *of whether the offer or solicitation was made by a minor who also*
21 *possessed the specific intent to engage in an act of prostitution.*

22 ~~(b) Who solicits or who agrees to engage in or who engages in~~
23 ~~any act of prostitution. A person agrees to engage in an act of~~
24 ~~prostitution when, with specific intent to so engage, he or she~~
25 ~~manifests an~~

26 (4) *A manifestation of acceptance of an offer or solicitation to*
27 *so engage, regardless of whether the offer or solicitation was made*
28 *by a person who also possessed the specific intent to engage in*
29 *prostitution. No agreement to engage in an act of prostitution shall*
30 *does not constitute a violation of this subdivision unless some act,*
31 *in addition to the agreement, manifestation of acceptance, is done*
32 *within this state in furtherance of the commission of an the act of*
33 *prostitution by the person agreeing manifesting an acceptance of*
34 *an offer or solicitation to engage in that act. As used in this*
35 *subdivision, “prostitution” includes any lewd act between persons*
36 *for money or other consideration.*

37 (5) *Except as provided in paragraph (6), a violation of*
38 *paragraph (2) or (3) is punishable by imprisonment in a county*
39 *jail for not less than 72 hours and not more than six months and*
40 *by a fine of not less than two hundred fifty dollars (\$250) but not*

1 *exceeding one thousand dollars (\$1,000). An amount of two*
2 *hundred fifty dollars (\$250) of the fine shall be deposited in the*
3 *treasury of the county in which the offense occurred and used by*
4 *the county to fund services for victims of human trafficking. Upon*
5 *a violation of paragraph (2) or (3), a person is not eligible for*
6 *release upon completion of sentence, on probation, on parole, on*
7 *work furlough or work release, or on any other basis until he or*
8 *she has served a period of not less than 24 continuous hours in a*
9 *county jail. In all cases in which probation is granted, the court*
10 *shall require as a condition of probation that the person be*
11 *confined in a county jail for at least 24 hours. The court shall*
12 *order that a person punished under this subdivision, who is to be*
13 *punished by imprisonment in the county jail, be imprisoned on*
14 *days other than days of regular employment of the person, as*
15 *determined by the court. If the court determines that 24 hours of*
16 *continuous imprisonment would interfere with the person's work*
17 *schedule, the court shall allow the person to serve the*
18 *imprisonment whenever the person is normally scheduled for time*
19 *off from work. The court may make this determination based upon*
20 *a representation from the defendant's attorney or upon an affidavit*
21 *or testimony from the defendant.*

22 *(6) If a defendant violates paragraph (3) and knew or should*
23 *have known that the person who was solicited was a minor at the*
24 *time of the offense, or if a defendant violates paragraph (2) and*
25 *the person who was solicited was a person posing as a minor and*
26 *the defendant had specific intent to solicit a minor, the violation*
27 *is punishable by imprisonment in a county jail for not less than*
28 *72 hours and not more than one year and by a fine not less than*
29 *one thousand dollars (\$1,000) but not exceeding ten thousand*
30 *dollars (\$10,000). The fine imposed shall be deposited in the*
31 *treasury of the county in which the offense occurred and used by*
32 *the county to fund services for victims of human trafficking. Upon*
33 *a violation of this paragraph, a person is not eligible for release*
34 *upon completion of sentence, on probation, on parole, on work*
35 *furlough or work release, or on any other basis until he or she has*
36 *served a period of not less than 48 continuous hours in a county*
37 *jail. In all cases in which probation is granted, the court shall*
38 *require as a condition of probation that the person be confined in*
39 *a county jail for at least 48 hours. The court shall order that a*
40 *person punished under this paragraph, who is to be punished by*

1 *imprisonment in the county jail, be imprisoned on days other than*
2 *days of regular employment of the person, as determined by the*
3 *court. If the court determines that 48 hours of continuous*
4 *imprisonment would interfere with the person's work schedule,*
5 *the court shall allow the person to serve the imprisonment*
6 *whenever the person is normally scheduled for time off from work.*
7 *The court may make this determination based upon a*
8 *representation from the defendant's attorney or upon an affidavit*
9 *or testimony from the defendant.*

10 (7) *This subdivision does not prohibit prosecution under any*
11 *other law.*

12 (c) Who accosts other persons in any public place or in any
13 place open to the public for the purpose of begging or soliciting
14 alms.

15 (d) Who loiters in or about any toilet open to the public for the
16 purpose of engaging in or soliciting any lewd or lascivious or any
17 unlawful act.

18 (e) Who lodges in any building, structure, vehicle, or place,
19 whether public or private, without the permission of the owner or
20 person entitled to the possession or in control of it.

21 (f) Who is found in any public place under the influence of
22 intoxicating liquor, any drug, controlled substance, toluene, or any
23 combination of any intoxicating liquor, drug, controlled substance,
24 or toluene, in a condition that he or she is unable to exercise care
25 for his or her own safety or the safety of others, or by reason of
26 his or her being under the influence of intoxicating liquor, any
27 drug, controlled substance, toluene, or any combination of any
28 intoxicating liquor, drug, or toluene, interferes with or obstructs
29 or prevents the free use of any street, sidewalk, or other public
30 way.

31 (g) ~~When~~*If* a person has violated subdivision (f), a peace officer,
32 if he or she is reasonably able to do so, shall place the person, or
33 cause him or her to be placed, in civil protective custody. The
34 person shall be taken to a facility, designated pursuant to Section
35 5170 of the Welfare and Institutions Code, for the 72-hour
36 treatment and evaluation of inebriates. A peace officer may place
37 a person in civil protective custody with that kind and degree of
38 force ~~which~~ *that* would be lawful were he or she effecting an arrest
39 for a misdemeanor without a warrant. A person who has been
40 placed in civil protective custody shall not thereafter be subject to

1 any criminal prosecution or juvenile court proceeding based on
2 the facts giving rise to this placement. This subdivision ~~shall~~ *does*
3 not apply to the following persons:

4 (1) ~~Any~~ A person who is under the influence of any drug, or
5 under the combined influence of intoxicating liquor and any drug.

6 (2) ~~Any~~ A person who a peace officer has probable cause to
7 believe has committed any felony, or who has committed any
8 misdemeanor in addition to subdivision (f).

9 (3) ~~Any~~ A person who a peace officer in good faith believes
10 will attempt escape or will be unreasonably difficult for medical
11 personnel to control.

12 (h) Who loiters, prowls, or wanders upon the private property
13 of another, at any time, without visible or lawful business with the
14 owner or occupant. As used in this subdivision, “loiter” means to
15 delay or linger without a lawful purpose for being on the property
16 and for the purpose of committing a crime as opportunity may be
17 discovered.

18 (i) Who, while loitering, prowling, or wandering upon the private
19 property of another, at any time, peeks in the door or window of
20 any inhabited building or structure, without visible or lawful
21 business with the owner or occupant.

22 (j) (1) ~~Any~~ A person who looks through a hole or opening, into,
23 or otherwise views, by means of any instrumentality, including,
24 but not limited to, a periscope, telescope, binoculars, camera,
25 motion picture camera, camcorder, or mobile phone, the interior
26 of a bedroom, bathroom, changing room, fitting room, dressing
27 room, or tanning booth, or the interior of any other area in which
28 the occupant has a reasonable expectation of privacy, with the
29 intent to invade the privacy of a person or persons inside. This
30 subdivision ~~shall~~ *does* not apply to those areas of a private business
31 used to count currency or other negotiable instruments.

32 (2) ~~Any~~ A person who uses a concealed camcorder, motion
33 picture camera, or photographic camera of any type, to secretly
34 videotape, film, photograph, or record by electronic means, another,
35 identifiable person under or through the clothing being worn by
36 that other person, for the purpose of viewing the body of, or the
37 undergarments worn by, that other person, without the consent or
38 knowledge of that other person, with the intent to arouse, appeal
39 to, or gratify the lust, passions, or sexual desires of that person and

1 invade the privacy of that other person, under circumstances in
2 which the other person has a reasonable expectation of privacy.

3 (3) (A) ~~Any~~A person who uses a concealed camcorder, motion
4 picture camera, or photographic camera of any type, to secretly
5 videotape, film, photograph, or record by electronic means, another,
6 identifiable person who may be in a state of full or partial undress,
7 for the purpose of viewing the body of, or the undergarments worn
8 by, that other person, without the consent or knowledge of that
9 other person, in the interior of a bedroom, bathroom, changing
10 room, fitting room, dressing room, or tanning booth, or the interior
11 of any other area in which that other person has a reasonable
12 expectation of privacy, with the intent to invade the privacy of that
13 other person.

14 (B) Neither of the following is a defense to the crime specified
15 in this paragraph:

16 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
17 employer, employee, or business partner or associate of the victim,
18 or an agent of any of these.

19 (ii) The victim was not in a state of full or partial undress.

20 (4) (A) ~~Any~~A person who intentionally distributes the image
21 of the intimate body part or parts of another identifiable person,
22 or an image of the person depicted engaged in an act of sexual
23 intercourse, sodomy, oral copulation, sexual penetration, or an
24 image of masturbation by the person depicted or in which the
25 person depicted participates, under circumstances in which the
26 persons agree or understand that the image shall remain private,
27 the person distributing the image knows or should know that
28 distribution of the image will cause serious emotional distress, and
29 the person depicted suffers that distress.

30 (B) A person intentionally distributes an image described in
31 subparagraph (A) when he or she personally distributes the image,
32 or arranges, specifically requests, or intentionally causes another
33 person to distribute that image.

34 (C) As used in this paragraph, “intimate body part” means any
35 portion of the genitals, the anus and in the case of a female, also
36 includes any portion of the breasts below the top of the areola, that
37 is either uncovered or clearly visible through clothing.

38 (D) It shall not be a violation of this paragraph to distribute an
39 image described in subparagraph (A) if any of the following
40 applies:

1 (i) The distribution is made in the course of reporting an
2 unlawful activity.

3 (ii) The distribution is made in compliance with a subpoena or
4 other court order for use in a legal proceeding.

5 (iii) The distribution is made in the course of a lawful public
6 proceeding.

7 (5) This subdivision ~~shall~~ *does* not preclude punishment under
8 any section of law providing for greater punishment.

9 ~~(k) In any accusatory pleading charging a violation of~~
10 ~~subdivision (b), if the defendant has been once previously convicted~~
11 ~~of a violation of that subdivision, the previous conviction shall be~~
12 ~~charged in the accusatory pleading. If the previous conviction is~~
13 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
14 ~~a court trial, or is admitted by the defendant, the defendant shall~~
15 ~~be imprisoned in a county jail for a period of not less than 45 days~~
16 ~~and shall not be eligible for release upon completion of sentence,~~
17 ~~on probation, on parole, on work furlough or work release, or on~~
18 ~~any other basis until he or she has served a period of not less than~~
19 ~~45 days in a county jail. In all cases in which probation is granted,~~
20 ~~the court shall require as a condition thereof that the person be~~
21 ~~confined in a county jail for at least 45 days. In no event does the~~
22 ~~court have the power to absolve a person who violates this~~
23 ~~subdivision from the obligation of spending at least 45 days in~~
24 ~~confinement in a county jail.~~

25 ~~In any accusatory pleading charging a violation of subdivision~~
26 ~~(b), if the defendant has been previously convicted two or more~~
27 ~~times of a violation of that subdivision, each of these previous~~
28 ~~convictions shall be charged in the accusatory pleading. If two or~~
29 ~~more of these previous convictions are found to be true by the jury,~~
30 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
31 ~~by the defendant, the defendant shall be imprisoned in a county~~
32 ~~jail for a period of not less than 90 days and shall not be eligible~~
33 ~~for release upon completion of sentence, on probation, on parole,~~
34 ~~on work furlough or work release, or on any other basis until he~~
35 ~~or she has served a period of not less than 90 days in a county jail.~~
36 ~~In all cases in which probation is granted, the court shall require~~
37 ~~as a condition thereof that the person be confined in a county jail~~
38 ~~for at least 90 days. In no event does the court have the power to~~
39 ~~absolve a person who violates this subdivision from the obligation~~
40 ~~of spending at least 90 days in confinement in a county jail.~~

~~In~~

(k) In addition to any punishment prescribed by this section, a court may suspend, for not more than 30 days, the privilege of the person to operate a motor vehicle pursuant to Section 13201.5 of the Vehicle Code for any violation of subdivision (b) that was committed within 1,000 feet of a private residence and with the use of a vehicle. In lieu of the suspension, the court may order a person's privilege to operate a motor vehicle restricted, for not more than six months, to necessary travel to and from the person's place of employment or education. If driving a motor vehicle is necessary to perform the duties of the person's employment, the court may also allow the person to drive in that person's scope of employment.

(l) (1) A second or subsequent violation of subdivision (j) is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

(2) If the victim of a violation of subdivision (j) was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail not exceeding one year, or by a fine not exceeding two thousand dollars (\$2,000), or by both that fine and imprisonment.

~~(m) (1) If a crime is committed in violation of subdivision (b) and the person who was solicited was a minor at the time of the offense, and if the defendant knew or should have known that the person who was solicited was a minor at the time of the offense, the violation is punishable by imprisonment in a county jail for not less than two days and not more than one year, or by a fine not exceeding ten thousand dollars (\$10,000), or by both that fine and imprisonment.~~

~~(2) The court may, in unusual cases, when the interests of justice are best served, reduce or eliminate the mandatory two days of imprisonment in a county jail required by this subdivision. If the court reduces or eliminates the mandatory two days' imprisonment, the court shall specify the reason on the record.~~

SEC. 1.4. Section 647 of the Penal Code is amended to read:

647. Except as provided in *paragraph (5) of subdivision (b)* and subdivision (l), every person who commits any of the following acts is guilty of disorderly conduct, a misdemeanor:

1 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
2 *engages in lewd or dissolute conduct in any public place or in any*
3 *place open to the public or exposed to public view.*

4 (b) (1) *An individual who solicits, or who agrees to engage in,*
5 *or who engages in, any act of prostitution with the intent to receive*
6 *compensation, money, or anything of value from another person.*
7 *An individual agrees to engage in an act of prostitution when, with*
8 *specific intent to so engage, he or she manifests an acceptance of*
9 *an offer or solicitation by another person to so engage, regardless*
10 *of whether the offer or solicitation was made by a person who also*
11 *possessed the specific intent to engage in an act of prostitution.*

12 (2) *An individual who solicits, or who agrees to engage in, or*
13 *who engages in, any act of prostitution with another person who*
14 *is 18 years of age or older in exchange for the individual providing*
15 *compensation, money, or anything of value to the other person.*
16 *An individual agrees to engage in an act of prostitution when, with*
17 *specific intent to so engage, he or she manifests an acceptance of*
18 *an offer or solicitation by another person who is 18 years of age*
19 *or older to so engage, regardless of whether the offer or solicitation*
20 *was made by a person who also possessed the specific intent to*
21 *engage in an act of prostitution.*

22 (3) *An individual who solicits, or who agrees to engage in, or*
23 *who engages in, any act of prostitution with another person who*
24 *is a minor in exchange for the individual providing compensation,*
25 *money, or anything of value to the minor. An individual agrees to*
26 *engage in an act of prostitution when, with specific intent to so*
27 *engage, he or she manifests an acceptance of an offer or*
28 *solicitation by someone who is a minor to so engage, regardless*
29 *of whether the offer or solicitation was made by a minor who also*
30 *possessed the specific intent to engage in an act of prostitution.*

31 (b) ~~Who solicits or who agrees to engage in or who engages in~~
32 ~~any act of prostitution. A person agrees to engage in an act of~~
33 ~~prostitution when, with specific intent to so engage, he or she~~
34 ~~manifests an~~

35 (4) *A manifestation of acceptance of an offer or solicitation to*
36 *so engage, regardless of whether the offer or solicitation was made*
37 *by a person who also possessed the specific intent to engage in*
38 *prostitution. No agreement to engage in an act of prostitution shall*
39 *does not constitute a violation of this subdivision unless some act,*
40 *in addition to the agreement, manifestation of acceptance is done*

1 within this state in furtherance of the commission of ~~an~~ the act of
2 prostitution by the person ~~agreeing~~ *manifesting an acceptance of*
3 *an offer or solicitation* to engage in that act. As used in this
4 subdivision, “prostitution” includes any lewd act between persons
5 for money or other consideration.

6 *(5) Notwithstanding paragraphs (1) to (3), inclusive, this*
7 *subdivision does not apply to a child under 18 years of age who*
8 *is alleged to have engaged in conduct to receive money or other*
9 *consideration that would, if committed by an adult, violate this*
10 *subdivision. A commercially exploited child under this paragraph*
11 *may be adjudged a dependent child of the court pursuant to*
12 *paragraph (2) of subdivision (b) of Section 300 of the Welfare and*
13 *Institutions Code and may be taken into temporary custody*
14 *pursuant to subdivision (a) of Section 305 of the Welfare and*
15 *Institutions Code, if the conditions allowing temporary custody*
16 *without warrant are met.*

17 (c) Who accosts other persons in any public place or in any
18 place open to the public for the purpose of begging or soliciting
19 alms.

20 (d) Who loiters in or about any toilet open to the public for the
21 purpose of engaging in or soliciting any lewd or lascivious or any
22 unlawful act.

23 (e) Who lodges in any building, structure, vehicle, or place,
24 whether public or private, without the permission of the owner or
25 person entitled to the possession or in control of it.

26 (f) Who is found in any public place under the influence of
27 intoxicating liquor, any drug, controlled substance, toluene, or any
28 combination of any intoxicating liquor, drug, controlled substance,
29 or toluene, in a condition that he or she is unable to exercise care
30 for his or her own safety or the safety of others, or by reason of
31 his or her being under the influence of intoxicating liquor, any
32 drug, controlled substance, toluene, or any combination of any
33 intoxicating liquor, drug, or toluene, interferes with or obstructs
34 or prevents the free use of any street, sidewalk, or other public
35 way.

36 (g) ~~When~~ *If* a person has violated subdivision (f), a peace officer,
37 if he or she is reasonably able to do so, shall place the person, or
38 cause him or her to be placed, in civil protective custody. The
39 person shall be taken to a facility, designated pursuant to Section
40 5170 of the Welfare and Institutions Code, for the 72-hour

1 treatment and evaluation of inebriates. A peace officer may place
2 a person in civil protective custody with that kind and degree of
3 force ~~which~~ *that* would be lawful were he or she effecting an arrest
4 for a misdemeanor without a warrant. A person who has been
5 placed in civil protective custody shall not thereafter be subject to
6 any criminal prosecution or juvenile court proceeding based on
7 the facts giving rise to this placement. This subdivision ~~shall~~ *does*
8 not apply to the following persons:

9 (1) ~~Any~~ A person who is under the influence of any drug, or
10 under the combined influence of intoxicating liquor and any drug.

11 (2) ~~Any~~ A person who a peace officer has probable cause to
12 believe has committed any felony, or who has committed any
13 misdemeanor in addition to subdivision (f).

14 (3) ~~Any~~ A person who a peace officer in good faith believes
15 will attempt escape or will be unreasonably difficult for medical
16 personnel to control.

17 (h) Who loiters, prowls, or wanders upon the private property
18 of another, at any time, without visible or lawful business with the
19 owner or occupant. As used in this subdivision, “loiter” means to
20 delay or linger without a lawful purpose for being on the property
21 and for the purpose of committing a crime as opportunity may be
22 discovered.

23 (i) Who, while loitering, prowling, or wandering upon the private
24 property of another, at any time, peeks in the door or window of
25 any inhabited building or structure, without visible or lawful
26 business with the owner or occupant.

27 (j) (1) ~~Any~~ A person who looks through a hole or opening, into,
28 or otherwise views, by means of any instrumentality, including,
29 but not limited to, a periscope, telescope, binoculars, camera,
30 motion picture camera, camcorder, or mobile phone, the interior
31 of a bedroom, bathroom, changing room, fitting room, dressing
32 room, or tanning booth, or the interior of any other area in which
33 the occupant has a reasonable expectation of privacy, with the
34 intent to invade the privacy of a person or persons inside. This
35 subdivision ~~shall~~ *does* not apply to those areas of a private business
36 used to count currency or other negotiable instruments.

37 (2) ~~Any~~ A person who uses a concealed camcorder, motion
38 picture camera, or photographic camera of any type, to secretly
39 videotape, film, photograph, or record by electronic means, another,
40 identifiable person under or through the clothing being worn by

1 that other person, for the purpose of viewing the body of, or the
2 undergarments worn by, that other person, without the consent or
3 knowledge of that other person, with the intent to arouse, appeal
4 to, or gratify the lust, passions, or sexual desires of that person and
5 invade the privacy of that other person, under circumstances in
6 which the other person has a reasonable expectation of privacy.

7 (3) (A) ~~Any~~A person who uses a concealed camcorder, motion
8 picture camera, or photographic camera of any type, to secretly
9 videotape, film, photograph, or record by electronic means, another,
10 identifiable person who may be in a state of full or partial undress,
11 for the purpose of viewing the body of, or the undergarments worn
12 by, that other person, without the consent or knowledge of that
13 other person, in the interior of a bedroom, bathroom, changing
14 room, fitting room, dressing room, or tanning booth, or the interior
15 of any other area in which that other person has a reasonable
16 expectation of privacy, with the intent to invade the privacy of that
17 other person.

18 (B) Neither of the following is a defense to the crime specified
19 in this paragraph:

20 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
21 employer, employee, or business partner or associate of the victim,
22 or an agent of any of these.

23 (ii) The victim was not in a state of full or partial undress.

24 (4) (A) ~~Any~~A person who intentionally distributes the image
25 of the intimate body part or parts of another identifiable person,
26 or an image of the person depicted engaged in an act of sexual
27 intercourse, sodomy, oral copulation, sexual penetration, or an
28 image of masturbation by the person depicted or in which the
29 person depicted participates, under circumstances in which the
30 persons agree or understand that the image shall remain private,
31 the person distributing the image knows or should know that
32 distribution of the image will cause serious emotional distress, and
33 the person depicted suffers that distress.

34 (B) A person intentionally distributes an image described in
35 subparagraph (A) when he or she personally distributes the image,
36 or arranges, specifically requests, or intentionally causes another
37 person to distribute that image.

38 (C) As used in this paragraph, “intimate body part” means any
39 portion of the genitals, the anus and in the case of a female, also

1 includes any portion of the breasts below the top of the areola, that
2 is either uncovered or clearly visible through clothing.

3 (D) It shall not be a violation of this paragraph to distribute an
4 image described in subparagraph (A) if any of the following
5 applies:

6 (i) The distribution is made in the course of reporting an
7 unlawful activity.

8 (ii) The distribution is made in compliance with a subpoena or
9 other court order for use in a legal proceeding.

10 (iii) The distribution is made in the course of a lawful public
11 proceeding.

12 (5) This subdivision ~~shall~~ *does* not preclude punishment under
13 any section of law providing for greater punishment.

14 ~~(k) In any accusatory pleading charging a violation of~~
15 ~~subdivision (b), if the defendant has been once previously convicted~~
16 ~~of a violation of that subdivision, the previous conviction shall be~~
17 ~~charged in the accusatory pleading. If the previous conviction is~~
18 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
19 ~~a court trial, or is admitted by the defendant, the defendant shall~~
20 ~~be imprisoned in a county jail for a period of not less than 45 days~~
21 ~~and shall not be eligible for release upon completion of sentence,~~
22 ~~on probation, on parole, on work furlough or work release, or on~~
23 ~~any other basis until he or she has served a period of not less than~~
24 ~~45 days in a county jail. In all cases in which probation is granted,~~
25 ~~the court shall require as a condition thereof that the person be~~
26 ~~confined in a county jail for at least 45 days. In no event does the~~
27 ~~court have the power to absolve a person who violates this~~
28 ~~subdivision from the obligation of spending at least 45 days in~~
29 ~~confinement in a county jail.~~

30 ~~In any accusatory pleading charging a violation of subdivision~~
31 ~~(b), if the defendant has been previously convicted two or more~~
32 ~~times of a violation of that subdivision, each of these previous~~
33 ~~convictions shall be charged in the accusatory pleading. If two or~~
34 ~~more of these previous convictions are found to be true by the jury,~~
35 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
36 ~~by the defendant, the defendant shall be imprisoned in a county~~
37 ~~jail for a period of not less than 90 days and shall not be eligible~~
38 ~~for release upon completion of sentence, on probation, on parole,~~
39 ~~on work furlough or work release, or on any other basis until he~~
40 ~~or she has served a period of not less than 90 days in a county jail.~~

1 ~~In all cases in which probation is granted, the court shall require~~
2 ~~as a condition thereof that the person be confined in a county jail~~
3 ~~for at least 90 days. In no event does the court have the power to~~
4 ~~absolve a person who violates this subdivision from the obligation~~
5 ~~of spending at least 90 days in confinement in a county jail.~~

6 ~~In~~

7 (k) In addition to any punishment prescribed by this section, a
8 court may suspend, for not more than 30 days, the privilege of the
9 person to operate a motor vehicle pursuant to Section 13201.5 of
10 the Vehicle Code for any violation of subdivision (b) that was
11 committed within 1,000 feet of a private residence and with the
12 use of a vehicle. In lieu of the suspension, the court may order a
13 person's privilege to operate a motor vehicle restricted, for not
14 more than six months, to necessary travel to and from the person's
15 place of employment or education. If driving a motor vehicle is
16 necessary to perform the duties of the person's employment, the
17 court may also allow the person to drive in that person's scope of
18 employment.

19 (l) (1) A second or subsequent violation of subdivision (j) is
20 punishable by imprisonment in a county jail not exceeding one
21 year, or by a fine not exceeding two thousand dollars (\$2,000), or
22 by both that fine and imprisonment.

23 (2) If the victim of a violation of subdivision (j) was a minor at
24 the time of the offense, the violation is punishable by imprisonment
25 in a county jail not exceeding one year, or by a fine not exceeding
26 two thousand dollars (\$2,000), or by both that fine and
27 imprisonment.

28 (m) (1) If a crime is committed in violation of subdivision (b)
29 and the person who was solicited was a minor at the time of the
30 offense, and if the defendant knew or should have known that the
31 person who was solicited was a minor at the time of the offense,
32 the violation is punishable by imprisonment in a county jail for
33 not less than two days and not more than one year, or by a fine not
34 exceeding ten thousand dollars (\$10,000), or by both that fine and
35 imprisonment.

36 (2) The court may, in unusual cases, when the interests of justice
37 are best served, reduce or eliminate the mandatory two days of
38 imprisonment in a county jail required by this subdivision. If the
39 court reduces or eliminates the mandatory two days' imprisonment,
40 the court shall specify the reason on the record.

1 *SEC. 1.5. Section 647 of the Penal Code is amended to read:*

2 647. Except as provided in subdivision (l), ~~every~~ a person who
3 commits any of the following acts is guilty of disorderly conduct,
4 a misdemeanor:

5 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
6 *engages in lewd or dissolute conduct in any public place or in any*
7 *place open to the public or exposed to public view.*

8 (b) (1) *An individual who solicits, or who agrees to engage in,*
9 *or who engages in, any act of prostitution with the intent to receive*
10 *compensation, money, or anything of value from another person.*
11 *An individual agrees to engage in an act of prostitution when, with*
12 *specific intent to so engage, he or she manifests an acceptance of*
13 *an offer or solicitation by another person to so engage, regardless*
14 *of whether the offer or solicitation was made by a person who also*
15 *possessed the specific intent to engage in an act of prostitution.*

16 (2) *An individual who solicits, or who agrees to engage in, or*
17 *who engages in, any act of prostitution with another person who*
18 *is 18 years of age or older in exchange for the individual providing*
19 *compensation, money, or anything of value to the other person.*
20 *An individual agrees to engage in an act of prostitution when, with*
21 *specific intent to so engage, he or she manifests an acceptance of*
22 *an offer or solicitation by another person who is 18 years of age*
23 *or older to so engage, regardless of whether the offer or solicitation*
24 *was made by a person who also possessed the specific intent to*
25 *engage in an act of prostitution.*

26 (3) *An individual who solicits, or who agrees to engage in, or*
27 *who engages in, any act of prostitution with another person who*
28 *is a minor in exchange for the individual providing compensation,*
29 *money, or anything of value to the minor. An individual agrees to*
30 *engage in an act of prostitution when, with specific intent to so*
31 *engage, he or she manifests an acceptance of an offer or*
32 *solicitation by someone who is a minor to so engage, regardless*
33 *of whether the offer or solicitation was made by a minor who also*
34 *possessed the specific intent to engage in an act of prostitution.*

35 (b) ~~Who solicits or who agrees to engage in or who engages in~~
36 ~~any act of prostitution. A person agrees to engage in an act of~~
37 ~~prostitution when, with specific intent to so engage, he or she~~
38 ~~manifests an~~

39 (4) *A manifestation of acceptance of an offer or solicitation to*
40 *so engage, regardless of whether the offer or solicitation was made*

1 ~~by a person who also possessed the specific intent to engage in~~
2 ~~prostitution. No agreement to engage in an act of prostitution shall~~
3 ~~does not~~ constitute a violation of this subdivision unless some act,
4 in addition to the ~~agreement~~, *manifestation of acceptance* is done
5 within this state in furtherance of the commission of ~~an~~ the act of
6 prostitution by the person ~~agreeing~~ *manifesting an acceptance of*
7 *an offer or solicitation* to engage in that act. As used in this
8 subdivision, “prostitution” includes any lewd act between persons
9 for money or other consideration.

10 (5) *Except as provided in paragraph (6), a violation of*
11 *paragraph (2) or (3) is punishable by imprisonment in a county*
12 *jail for not less than 72 hours and not more than six months and*
13 *by a fine of not less than two hundred fifty dollars (\$250) but not*
14 *exceeding one thousand dollars (\$1,000). An amount of two*
15 *hundred fifty dollars (\$250) of the fine shall be deposited in the*
16 *treasury of the county in which the offense occurred and used by*
17 *the county to fund services for victims of human trafficking. Upon*
18 *a violation of paragraph (2) or (3), a person is not eligible for*
19 *release upon completion of sentence, on probation, on parole, on*
20 *work furlough or work release, or on any other basis until he or*
21 *she has served a period of not less than 24 continuous hours in a*
22 *county jail. In all cases in which probation is granted, the court*
23 *shall require as a condition of probation that the person be*
24 *confined in a county jail for at least 24 hours. The court shall*
25 *order that a person punished under this subdivision, who is to be*
26 *punished by imprisonment in the county jail, be imprisoned on*
27 *days other than days of regular employment of the person, as*
28 *determined by the court. If the court determines that 24 hours of*
29 *continuous imprisonment would interfere with the person’s work*
30 *schedule, the court shall allow the person to serve the*
31 *imprisonment whenever the person is normally scheduled for time*
32 *off from work. The court may make this determination based upon*
33 *a representation from the defendant’s attorney or upon an affidavit*
34 *or testimony from the defendant.*

35 (6) *If a defendant violates paragraph (3) and knew or should*
36 *have known that the person who was solicited was a minor at the*
37 *time of the offense, or if a defendant violates paragraph (2) and*
38 *the person who was solicited was a person posing as a minor and*
39 *the defendant had specific intent to solicit a minor, the violation*
40 *is punishable by imprisonment in a county jail for not less than*

1 72 hours and not more than one year and by a fine not less than
2 one thousand dollars (\$1,000) but not exceeding ten thousand
3 dollars (\$10,000). The fine imposed shall be deposited in the
4 treasury of the county in which the offense occurred and used by
5 the county to fund services for victims of human trafficking. Upon
6 a violation of this paragraph, a person is not eligible for release
7 upon completion of sentence, on probation, on parole, on work
8 furlough or work release, or on any other basis until he or she has
9 served a period of not less than 48 continuous hours in a county
10 jail. In all cases in which probation is granted, the court shall
11 require as a condition of probation that the person be confined in
12 a county jail for at least 48 hours. The court shall order that a
13 person punished under this paragraph, who is to be punished by
14 imprisonment in the county jail, be imprisoned on days other than
15 days of regular employment of the person, as determined by the
16 court. If the court determines that 48 hours of continuous
17 imprisonment would interfere with the person's work schedule,
18 the court shall allow the person to serve the imprisonment
19 whenever the person is normally scheduled for time off from work.
20 The court may make this determination based upon a
21 representation from the defendant's attorney or upon an affidavit
22 or testimony from the defendant.

23 (7) This subdivision does not prohibit prosecution under any
24 other law.

25 (c) Who accosts other persons in any public place or in any
26 place open to the public for the purpose of begging or soliciting
27 alms.

28 (d) Who loiters in or about any toilet open to the public for the
29 purpose of engaging in or soliciting any lewd or lascivious or any
30 unlawful act.

31 (e) Who lodges in any building, structure, vehicle, or place,
32 whether public or private, without the permission of the owner or
33 person entitled to the possession or in control of it.

34 (f) Who is found in any public place under the influence of
35 intoxicating liquor, any drug, controlled substance, toluene, or any
36 combination of any intoxicating liquor, drug, controlled substance,
37 or toluene, in a condition that he or she is unable to exercise care
38 for his or her own safety or the safety of others, or by reason of
39 his or her being under the influence of intoxicating liquor, any
40 drug, controlled substance, toluene, or any combination of any

1 intoxicating liquor, drug, or toluene, interferes with or obstructs
2 or prevents the free use of any street, sidewalk, or other public
3 way.

4 (g) ~~When~~ If a person has violated subdivision (f), a peace officer,
5 if he or she is reasonably able to do so, shall place the person, or
6 cause him or her to be placed, in civil protective custody. The
7 person shall be taken to a facility, designated pursuant to Section
8 5170 of the Welfare and Institutions Code, for the 72-hour
9 treatment and evaluation of inebriates. A peace officer may place
10 a person in civil protective custody with that kind and degree of
11 force ~~which~~ *that* would be lawful were he or she effecting an arrest
12 for a misdemeanor without a warrant. A person who has been
13 placed in civil protective custody shall not thereafter be subject to
14 any criminal prosecution or juvenile court proceeding based on
15 the facts giving rise to this placement. This subdivision ~~shall~~ *does*
16 not apply to the following persons:

17 (1) ~~Any~~ A person who is under the influence of any drug, or
18 under the combined influence of intoxicating liquor and any drug.

19 (2) ~~Any~~ A person who a peace officer has probable cause to
20 believe has committed any felony, or who has committed any
21 misdemeanor in addition to subdivision (f).

22 (3) ~~Any~~ A person who a peace officer in good faith believes
23 will attempt escape or will be unreasonably difficult for medical
24 personnel to control.

25 (h) Who loiters, prowls, or wanders upon the private property
26 of another, at any time, without visible or lawful business with the
27 owner or occupant. As used in this subdivision, “loiter” means to
28 delay or linger without a lawful purpose for being on the property
29 and for the purpose of committing a crime as opportunity may be
30 discovered.

31 (i) Who, while loitering, prowling, or wandering upon the private
32 property of another, at any time, peeks in the door or window of
33 any inhabited building or structure, without visible or lawful
34 business with the owner or occupant.

35 (j) (1) ~~Any~~ A person who looks through a hole or opening, into,
36 or otherwise views, by means of any instrumentality, including,
37 but not limited to, a periscope, telescope, binoculars, camera,
38 motion picture camera, camcorder, or mobile phone, the interior
39 of a bedroom, bathroom, changing room, fitting room, dressing
40 room, or tanning booth, or the interior of any other area in which

1 the occupant has a reasonable expectation of privacy, with the
2 intent to invade the privacy of a person or persons inside. This
3 subdivision ~~shall~~ *does* not apply to those areas of a private business
4 used to count currency or other negotiable instruments.

5 (2) ~~Any~~ A person who uses a concealed camcorder, motion
6 picture camera, or photographic camera of any type, to secretly
7 videotape, film, photograph, or record by electronic means, another,
8 identifiable person under or through the clothing being worn by
9 that other person, for the purpose of viewing the body of, or the
10 undergarments worn by, that other person, without the consent or
11 knowledge of that other person, with the intent to arouse, appeal
12 to, or gratify the lust, passions, or sexual desires of that person and
13 invade the privacy of that other person, under circumstances in
14 which the other person has a reasonable expectation of privacy.

15 (3) (A) ~~Any~~ A person who uses a concealed camcorder, motion
16 picture camera, or photographic camera of any type, to secretly
17 videotape, film, photograph, or record by electronic means, another,
18 identifiable person who may be in a state of full or partial undress,
19 for the purpose of viewing the body of, or the undergarments worn
20 by, that other person, without the consent or knowledge of that
21 other person, in the interior of a bedroom, bathroom, changing
22 room, fitting room, dressing room, or tanning booth, or the interior
23 of any other area in which that other person has a reasonable
24 expectation of privacy, with the intent to invade the privacy of that
25 other person.

26 (B) Neither of the following is a defense to the crime specified
27 in this paragraph:

28 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
29 employer, employee, or business partner or associate of the victim,
30 or an agent of any of these.

31 (ii) The victim was not in a state of full or partial undress.

32 (4) (A) ~~Any~~ A person who intentionally distributes the image
33 of the intimate body part or parts of another identifiable person,
34 or an image of the person depicted engaged in an act of sexual
35 intercourse, sodomy, oral copulation, sexual penetration, or an
36 image of masturbation by the person depicted or in which the
37 person depicted participates, under circumstances in which the
38 persons agree or understand that the image shall remain private,
39 the person distributing the image knows or should know that

1 distribution of the image will cause serious emotional distress, and
2 the person depicted suffers that distress.

3 (B) A person intentionally distributes an image described in
4 subparagraph (A) when he or she personally distributes the image,
5 or arranges, specifically requests, or intentionally causes another
6 person to distribute that image.

7 (C) As used in this paragraph, “intimate body part” means any
8 portion of the genitals, the anus and in the case of a female, also
9 includes any portion of the breasts below the top of the areola, that
10 is either uncovered or clearly visible through clothing.

11 (D) It shall not be a violation of this paragraph to distribute an
12 image described in subparagraph (A) if any of the following
13 applies:

14 (i) The distribution is made in the course of reporting an
15 unlawful activity.

16 (ii) The distribution is made in compliance with a subpoena or
17 other court order for use in a legal proceeding.

18 (iii) The distribution is made in the course of a lawful public
19 proceeding.

20 (5) This subdivision ~~shall~~ *does* not preclude punishment under
21 any section of law providing for greater punishment.

22 ~~(k) In any accusatory pleading charging a violation of~~
23 ~~subdivision (b), if the defendant has been once previously convicted~~
24 ~~of a violation of that subdivision, the previous conviction shall be~~
25 ~~charged in the accusatory pleading. If the previous conviction is~~
26 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
27 ~~a court trial, or is admitted by the defendant, the defendant shall~~
28 ~~be imprisoned in a county jail for a period of not less than 45 days~~
29 ~~and shall not be eligible for release upon completion of sentence,~~
30 ~~on probation, on parole, on work furlough or work release, or on~~
31 ~~any other basis until he or she has served a period of not less than~~
32 ~~45 days in a county jail. In all cases in which probation is granted,~~
33 ~~the court shall require as a condition thereof that the person be~~
34 ~~confined in a county jail for at least 45 days. In no event does the~~
35 ~~court have the power to absolve a person who violates this~~
36 ~~subdivision from the obligation of spending at least 45 days in~~
37 ~~confinement in a county jail.~~

38 ~~In any accusatory pleading charging a violation of subdivision~~
39 ~~(b), if the defendant has been previously convicted two or more~~
40 ~~times of a violation of that subdivision, each of these previous~~

1 ~~convictions shall be charged in the accusatory pleading. If two or~~
2 ~~more of these previous convictions are found to be true by the jury,~~
3 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
4 ~~by the defendant, the defendant shall be imprisoned in a county~~
5 ~~jail for a period of not less than 90 days and shall not be eligible~~
6 ~~for release upon completion of sentence, on probation, on parole,~~
7 ~~on work furlough or work release, or on any other basis until he~~
8 ~~or she has served a period of not less than 90 days in a county jail.~~
9 ~~In all cases in which probation is granted, the court shall require~~
10 ~~as a condition thereof that the person be confined in a county jail~~
11 ~~for at least 90 days. In no event does the court have the power to~~
12 ~~absolve a person who violates this subdivision from the obligation~~
13 ~~of spending at least 90 days in confinement in a county jail.~~

14 ~~In~~

15 *(k)* In addition to any punishment prescribed by this section, a
16 court may suspend, for not more than 30 days, the privilege of the
17 person to operate a motor vehicle pursuant to Section 13201.5 of
18 the Vehicle Code for any violation of subdivision (b) that was
19 committed within 1,000 feet of a private residence and with the
20 use of a vehicle. In lieu of the suspension, the court may order a
21 person's privilege to operate a motor vehicle restricted, for not
22 more than six months, to necessary travel to and from the person's
23 place of employment or education. If driving a motor vehicle is
24 necessary to perform the duties of the person's employment, the
25 court may also allow the person to drive in that person's scope of
26 employment.

27 *(l)* (1) A second or subsequent violation of subdivision (j) is
28 punishable by imprisonment in a county jail not exceeding one
29 year, or by a fine not exceeding two thousand dollars (\$2,000), or
30 by both that fine and imprisonment.

31 (2) If the victim of a violation of subdivision (j) was a minor at
32 the time of the offense, the violation is punishable by imprisonment
33 in a county jail not exceeding one year, or by a fine not exceeding
34 two thousand dollars (\$2,000), or by both that fine and
35 imprisonment.

36 ~~(m) (1) If a crime is committed in violation of subdivision (b)~~
37 ~~and the person who was solicited was a minor at the time of the~~
38 ~~offense, and if the defendant knew or should have known that the~~
39 ~~person who was solicited was a minor at the time of the offense,~~
40 ~~the violation is punishable by imprisonment in a county jail for~~

1 not less than two days and not more than one year, or by a fine not
2 exceeding ten thousand dollars (\$10,000), or by both that fine and
3 imprisonment.

4 (2) ~~The court may, in unusual cases, when the interests of justice~~
5 ~~are best served, reduce or eliminate the mandatory two days of~~
6 ~~imprisonment in a county jail required by this subdivision. If the~~
7 ~~court reduces or eliminates the mandatory two days' imprisonment,~~
8 ~~the court shall specify the reason on the record.~~

9 *SEC. 1.6. Section 647 of the Penal Code is amended to read:*

10 647. Except as provided in *paragraph (8) of subdivision (b)*
11 *and subdivision (l), every a person who commits any of the*
12 *following acts is guilty of disorderly conduct, a misdemeanor:*

13 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
14 *engages in lewd or dissolute conduct in any public place or in any*
15 *place open to the public or exposed to public view.*

16 (b) (1) *An individual who solicits, or who agrees to engage in,*
17 *or who engages in, any act of prostitution with another person*
18 *with the intent to receive compensation, money, or anything of*
19 *value and with the specific intent to so engage.*

20 (2) *An individual who solicits, or who agrees to engage in, or*
21 *who engages in, any act of prostitution with another person who*
22 *is 18 years of age or older in exchange for the individual providing*
23 *compensation, money, or anything of value to the other person.*
24 *An individual agrees to engage in an act of prostitution when, with*
25 *specific intent to so engage, he or she manifests an acceptance of*
26 *an offer or solicitation by another person who is 18 years of age*
27 *or older to so engage, regardless of whether the offer or solicitation*
28 *was made by a person who also possessed the specific intent to*
29 *engage in an act of prostitution.*

30 (3) *An individual who solicits, or who agrees to engage in, or*
31 *who engages in, any act of prostitution with another person who*
32 *is a minor in exchange for the individual providing compensation,*
33 *money, or anything of value to the minor. An individual agrees to*
34 *engage in an act of prostitution when, with specific intent to so*
35 *engage, he or she manifests an acceptance of an offer or*
36 *solicitation by someone who is a minor to so engage, regardless*
37 *of whether the offer or solicitation was made by a minor who also*
38 *possessed the specific intent to engage in an act of prostitution.*

39 (b) ~~Who solicits or who agrees to engage in or who engages in~~
40 ~~any act of prostitution. A person agrees to engage in an act of~~

1 ~~prostitution when, with specific intent to so engage, he or she~~
2 ~~manifests an~~

3 (4) *A manifestation of acceptance of an offer or solicitation to*
4 *so engage, regardless of whether the offer or solicitation was made*
5 *by a person who also possessed the specific intent to engage in*
6 *prostitution. No agreement to engage in an act of prostitution shall*
7 *does not constitute a violation of this subdivision unless some act,*
8 *in addition to the agreement, manifestation of acceptance, is done*
9 *within this state in furtherance of the commission of an the act of*
10 *prostitution by the person agreeing manifesting an acceptance of*
11 *an offer or solicitation to engage in that act. As used in this*
12 *subdivision, “prostitution” includes any lewd act between persons*
13 *for money or other consideration.*

14 (5) *Except as provided in paragraph (6), a violation of*
15 *paragraph (2) or (3) is punishable by imprisonment in a county*
16 *jail for not less than 72 hours and not more than six months and*
17 *by a fine of not less than two hundred fifty dollars (\$250) but not*
18 *exceeding one thousand dollars (\$1,000). An amount of two*
19 *hundred fifty dollars (\$250) of the fine shall be deposited in the*
20 *treasury of the county in which the offense occurred and used by*
21 *the county to fund services for victims of human trafficking. Upon*
22 *a violation of paragraph (2) or (3), a person is not eligible for*
23 *release upon completion of sentence, on probation, on parole, on*
24 *work furlough or work release, or on any other basis until he or*
25 *she has served a period of not less than 24 continuous hours in a*
26 *county jail. In all cases in which probation is granted, the court*
27 *shall require as a condition of probation that the person be*
28 *confined in a county jail for at least 24 hours. The court shall*
29 *order that a person punished under this subdivision, who is to be*
30 *punished by imprisonment in the county jail, be imprisoned on*
31 *days other than days of regular employment of the person, as*
32 *determined by the court. If the court determines that 24 hours of*
33 *continuous imprisonment would interfere with the person’s work*
34 *schedule, the court shall allow the person to serve the*
35 *imprisonment whenever the person is normally scheduled for time*
36 *off from work. The court may make this determination based upon*
37 *a representation from the defendant’s attorney or upon an affidavit*
38 *or testimony from the defendant.*

39 (6) *If a defendant violates paragraph (3) and knew or should*
40 *have known that the person who was solicited was a minor at the*

1 *time of the offense, or if a defendant violates paragraph (2) and*
2 *the person who was solicited was a person posing as a minor and*
3 *the defendant had specific intent to solicit a minor, the violation*
4 *is punishable by imprisonment in a county jail for not less than*
5 *72 hours and not more than one year and by a fine not less than*
6 *one thousand dollars (\$1,000) but not exceeding ten thousand*
7 *dollars (\$10,000). The fine imposed shall be deposited in the*
8 *treasury of the county in which the offense occurred and used by*
9 *the county to fund services for victims of human trafficking. Upon*
10 *a violation of this paragraph, a person is not eligible for release*
11 *upon completion of sentence, on probation, on parole, on work*
12 *furlough or work release, or on any other basis until he or she has*
13 *served a period of not less than 48 continuous hours in a county*
14 *jail. In all cases in which probation is granted, the court shall*
15 *require as a condition of probation that the person be confined in*
16 *a county jail for at least 48 hours. The court shall order that a*
17 *person punished under this paragraph, who is to be punished by*
18 *imprisonment in the county jail, be imprisoned on days other than*
19 *days of regular employment of the person, as determined by the*
20 *court. If the court determines that 48 hours of continuous*
21 *imprisonment would interfere with the person's work schedule,*
22 *the court shall allow the person to serve the imprisonment*
23 *whenever the person is normally scheduled for time off from work.*
24 *The court may make this determination based upon a*
25 *representation from the defendant's attorney or upon an affidavit*
26 *or testimony from the defendant.*

27 *(7) This subdivision does not prohibit prosecution under any*
28 *other law.*

29 *(8) Notwithstanding paragraphs (1) to (3), inclusive, this*
30 *subdivision does not apply to a child under 18 years of age who*
31 *is alleged to have engaged in conduct to receive money or other*
32 *consideration that would, if committed by an adult, violate this*
33 *subdivision. A commercially exploited child under this paragraph*
34 *may be adjudged a dependent child of the court pursuant to*
35 *paragraph (2) of subdivision (b) of Section 300 of the Welfare and*
36 *Institutions Code and may be taken into temporary custody*
37 *pursuant to subdivision (a) of Section 305 of the Welfare and*
38 *Institutions Code, if the conditions allowing temporary custody*
39 *without warrant are met.*

1 (c) Who accosts other persons in any public place or in any
2 place open to the public for the purpose of begging or soliciting
3 alms.

4 (d) Who loiters in or about any toilet open to the public for the
5 purpose of engaging in or soliciting any lewd or lascivious or any
6 unlawful act.

7 (e) Who lodges in any building, structure, vehicle, or place,
8 whether public or private, without the permission of the owner or
9 person entitled to the possession or in control of it.

10 (f) Who is found in any public place under the influence of
11 intoxicating liquor, any drug, controlled substance, toluene, or any
12 combination of any intoxicating liquor, drug, controlled substance,
13 or toluene, in a condition that he or she is unable to exercise care
14 for his or her own safety or the safety of others, or by reason of
15 his or her being under the influence of intoxicating liquor, any
16 drug, controlled substance, toluene, or any combination of any
17 intoxicating liquor, drug, or toluene, interferes with or obstructs
18 or prevents the free use of any street, sidewalk, or other public
19 way.

20 (g) ~~When~~ *If* a person has violated subdivision (f), a peace officer,
21 if he or she is reasonably able to do so, shall place the person, or
22 cause him or her to be placed, in civil protective custody. The
23 person shall be taken to a facility, designated pursuant to Section
24 5170 of the Welfare and Institutions Code, for the 72-hour
25 treatment and evaluation of inebriates. A peace officer may place
26 a person in civil protective custody with that kind and degree of
27 force ~~which~~ *that* would be lawful were he or she effecting an arrest
28 for a misdemeanor without a warrant. A person who has been
29 placed in civil protective custody shall not thereafter be subject to
30 any criminal prosecution or juvenile court proceeding based on
31 the facts giving rise to this placement. This subdivision ~~shall~~ *does*
32 not apply to the following persons:

33 (1) ~~Any~~ A person who is under the influence of any drug, or
34 under the combined influence of intoxicating liquor and any drug.

35 (2) ~~Any~~ A person who a peace officer has probable cause to
36 believe has committed any felony, or who has committed any
37 misdemeanor in addition to subdivision (f).

38 (3) ~~Any~~ A person who a peace officer in good faith believes
39 will attempt escape or will be unreasonably difficult for medical
40 personnel to control.

1 (h) Who loiters, prowls, or wanders upon the private property
2 of another, at any time, without visible or lawful business with the
3 owner or occupant. As used in this subdivision, “loiter” means to
4 delay or linger without a lawful purpose for being on the property
5 and for the purpose of committing a crime as opportunity may be
6 discovered.

7 (i) Who, while loitering, prowling, or wandering upon the private
8 property of another, at any time, peeks in the door or window of
9 any inhabited building or structure, without visible or lawful
10 business with the owner or occupant.

11 (j) (1) ~~Any~~ A person who looks through a hole or opening, into,
12 or otherwise views, by means of any instrumentality, including,
13 but not limited to, a periscope, telescope, binoculars, camera,
14 motion picture camera, camcorder, or mobile phone, the interior
15 of a bedroom, bathroom, changing room, fitting room, dressing
16 room, or tanning booth, or the interior of any other area in which
17 the occupant has a reasonable expectation of privacy, with the
18 intent to invade the privacy of a person or persons inside. This
19 subdivision ~~shall~~ *does* not apply to those areas of a private business
20 used to count currency or other negotiable instruments.

21 (2) ~~Any~~ A person who uses a concealed camcorder, motion
22 picture camera, or photographic camera of any type, to secretly
23 videotape, film, photograph, or record by electronic means, another,
24 identifiable person under or through the clothing being worn by
25 that other person, for the purpose of viewing the body of, or the
26 undergarments worn by, that other person, without the consent or
27 knowledge of that other person, with the intent to arouse, appeal
28 to, or gratify the lust, passions, or sexual desires of that person and
29 invade the privacy of that other person, under circumstances in
30 which the other person has a reasonable expectation of privacy.

31 (3) (A) ~~Any~~ A person who uses a concealed camcorder, motion
32 picture camera, or photographic camera of any type, to secretly
33 videotape, film, photograph, or record by electronic means, another,
34 identifiable person who may be in a state of full or partial undress,
35 for the purpose of viewing the body of, or the undergarments worn
36 by, that other person, without the consent or knowledge of that
37 other person, in the interior of a bedroom, bathroom, changing
38 room, fitting room, dressing room, or tanning booth, or the interior
39 of any other area in which that other person has a reasonable

1 expectation of privacy, with the intent to invade the privacy of that
2 other person.

3 (B) Neither of the following is a defense to the crime specified
4 in this paragraph:

5 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
6 employer, employee, or business partner or associate of the victim,
7 or an agent of any of these.

8 (ii) The victim was not in a state of full or partial undress.

9 (4) (A) ~~Any~~ A person who intentionally distributes the image
10 of the intimate body part or parts of another identifiable person,
11 or an image of the person depicted engaged in an act of sexual
12 intercourse, sodomy, oral copulation, sexual penetration, or an
13 image of masturbation by the person depicted or in which the
14 person depicted participates, under circumstances in which the
15 persons agree or understand that the image shall remain private,
16 the person distributing the image knows or should know that
17 distribution of the image will cause serious emotional distress, and
18 the person depicted suffers that distress.

19 (B) A person intentionally distributes an image described in
20 subparagraph (A) when he or she personally distributes the image,
21 or arranges, specifically requests, or intentionally causes another
22 person to distribute that image.

23 (C) As used in this paragraph, “intimate body part” means any
24 portion of the genitals, the anus and in the case of a female, also
25 includes any portion of the breasts below the top of the areola, that
26 is either uncovered or clearly visible through clothing.

27 (D) It shall not be a violation of this paragraph to distribute an
28 image described in subparagraph (A) if any of the following
29 applies:

30 (i) The distribution is made in the course of reporting an
31 unlawful activity.

32 (ii) The distribution is made in compliance with a subpoena or
33 other court order for use in a legal proceeding.

34 (iii) The distribution is made in the course of a lawful public
35 proceeding.

36 (5) This subdivision ~~shall~~ *does* not preclude punishment under
37 any section of law providing for greater punishment.

38 ~~(k) In any accusatory pleading charging a violation of~~
39 ~~subdivision (b), if the defendant has been once previously convicted~~
40 ~~of a violation of that subdivision, the previous conviction shall be~~

1 charged in the accusatory pleading. If the previous conviction is
2 found to be true by the jury, upon a jury trial, or by the court, upon
3 a court trial, or is admitted by the defendant, the defendant shall
4 be imprisoned in a county jail for a period of not less than 45 days
5 and shall not be eligible for release upon completion of sentence,
6 on probation, on parole, on work furlough or work release, or on
7 any other basis until he or she has served a period of not less than
8 45 days in a county jail. In all cases in which probation is granted,
9 the court shall require as a condition thereof that the person be
10 confined in a county jail for at least 45 days. In no event does the
11 court have the power to absolve a person who violates this
12 subdivision from the obligation of spending at least 45 days in
13 confinement in a county jail.

14 In any accusatory pleading charging a violation of subdivision
15 (b), if the defendant has been previously convicted two or more
16 times of a violation of that subdivision, each of these previous
17 convictions shall be charged in the accusatory pleading. If two or
18 more of these previous convictions are found to be true by the jury,
19 upon a jury trial, or by the court, upon a court trial, or are admitted
20 by the defendant, the defendant shall be imprisoned in a county
21 jail for a period of not less than 90 days and shall not be eligible
22 for release upon completion of sentence, on probation, on parole,
23 on work furlough or work release, or on any other basis until he
24 or she has served a period of not less than 90 days in a county jail.
25 In all cases in which probation is granted, the court shall require
26 as a condition thereof that the person be confined in a county jail
27 for at least 90 days. In no event does the court have the power to
28 absolve a person who violates this subdivision from the obligation
29 of spending at least 90 days in confinement in a county jail.

30 ~~In~~

31 (k) In addition to any punishment prescribed by this section, a
32 court may suspend, for not more than 30 days, the privilege of the
33 person to operate a motor vehicle pursuant to Section 13201.5 of
34 the Vehicle Code for any violation of subdivision (b) that was
35 committed within 1,000 feet of a private residence and with the
36 use of a vehicle. In lieu of the suspension, the court may order a
37 person's privilege to operate a motor vehicle restricted, for not
38 more than six months, to necessary travel to and from the person's
39 place of employment or education. If driving a motor vehicle is
40 necessary to perform the duties of the person's employment, the

1 court may also allow the person to drive in that person's scope of
2 employment.

3 (l) (1) A second or subsequent violation of subdivision (j) is
4 punishable by imprisonment in a county jail not exceeding one
5 year, or by a fine not exceeding two thousand dollars (\$2,000), or
6 by both that fine and imprisonment.

7 (2) If the victim of a violation of subdivision (j) was a minor at
8 the time of the offense, the violation is punishable by imprisonment
9 in a county jail not exceeding one year, or by a fine not exceeding
10 two thousand dollars (\$2,000), or by both that fine and
11 imprisonment.

12 ~~(m) (1) If a crime is committed in violation of subdivision (b)~~
13 ~~and the person who was solicited was a minor at the time of the~~
14 ~~offense, and if the defendant knew or should have known that the~~
15 ~~person who was solicited was a minor at the time of the offense,~~
16 ~~the violation is punishable by imprisonment in a county jail for~~
17 ~~not less than two days and not more than one year, or by a fine not~~
18 ~~exceeding ten thousand dollars (\$10,000), or by both that fine and~~
19 ~~imprisonment.~~

20 ~~(2) The court may, in unusual cases, when the interests of justice~~
21 ~~are best served, reduce or eliminate the mandatory two days of~~
22 ~~imprisonment in a county jail required by this subdivision. If the~~
23 ~~court reduces or eliminates the mandatory two days' imprisonment,~~
24 ~~the court shall specify the reason on the record.~~

25 *SEC. 1.7. Section 647 of the Penal Code is amended to read:*

26 647. Except as provided in *paragraph (8) of subdivision (b)*
27 *and subdivision (l), every a person who commits any of the*
28 *following acts is guilty of disorderly conduct, a misdemeanor:*

29 (a) ~~Who~~ *An individual who solicits anyone to engage in or who*
30 *engages in lewd or dissolute conduct in any public place or in any*
31 *place open to the public or exposed to public view.*

32 (b) (1) *An individual who solicits, or who agrees to engage in,*
33 *or who engages in, any act of prostitution with the intent to receive*
34 *compensation, money, or anything of value from another person.*
35 *An individual agrees to engage in an act of prostitution when, with*
36 *specified intent to so engage, he or she manifests an acceptance*
37 *of an offer or solicitation by another person to so engage,*
38 *regardless of whether the offer or solicitation was made by a*
39 *person who also possessed the specific intent to engage in an act*
40 *of prostitution.*

1 (2) *An individual who solicits, or who agrees to engage in, or*
2 *who engages in, any act of prostitution with another person who*
3 *is 18 years of age or older in exchange for the individual providing*
4 *compensation, money, or anything of value to the other person.*
5 *An individual agrees to engage in an act of prostitution when, with*
6 *specific intent to so engage, he or she manifests an acceptance of*
7 *an offer or solicitation by another person who is 18 years of age*
8 *or older to so engage, regardless of whether the offer or solicitation*
9 *was made by a person who also possessed the specific intent to*
10 *engage in an act of prostitution.*

11 (3) *An individual who solicits, or who agrees to engage in, or*
12 *who engages in, any act of prostitution with another person who*
13 *is a minor in exchange for the individual providing compensation,*
14 *money, or anything of value to the minor. An individual agrees to*
15 *engage in an act of prostitution when, with specific intent to so*
16 *engage, he or she manifests an acceptance of an offer or*
17 *solicitation by someone who is a minor to so engage, regardless*
18 *of whether the offer or solicitation was made by a minor who also*
19 *possessed the specific intent to engage in an act of prostitution.*

20 ~~(b) Who solicits or who agrees to engage in or who engages in~~
21 ~~any act of prostitution. A person agrees to engage in an act of~~
22 ~~prostitution when, with specific intent to so engage, he or she~~
23 ~~manifests an acceptance of an offer or solicitation to so engage,~~
24 ~~regardless of whether the offer or solicitation was made by a person~~
25 ~~who also possessed the specific intent to engage in prostitution.~~
26 ~~No agreement to engage in an act of prostitution shall constitute~~
27 ~~a violation of this subdivision unless some act, in addition to the~~
28 ~~agreement, is done within this state in furtherance of the~~
29 ~~commission of an act of prostitution by the person agreeing to~~
30 ~~engage in that act.~~

31 (4) *A manifestation of acceptance of an offer or solicitation to*
32 *engage in an act of prostitution does not constitute a violation of*
33 *this subdivision unless some act, in addition to the manifestation*
34 *of acceptance, is done within this state in furtherance of the*
35 *commission of the act of prostitution by the person manifesting an*
36 *acceptance of an offer or solicitation to engage in that act. As*
37 *used in this subdivision, “prostitution” includes any lewd act*
38 *between persons for money or other consideration.*

39 (5) *Except as provided in paragraph (6), a violation of*
40 *paragraph (2) or (3) is punishable by imprisonment in a county*

1 jail for not less than 72 hours and not more than six months and
2 by a fine of not less than two hundred fifty dollars (\$250) but not
3 exceeding one thousand dollars (\$1,000). An amount of two
4 hundred fifty dollars (\$250) of the fine shall be deposited in the
5 treasury of the county in which the offense occurred and used by
6 the county to fund services for victims of human trafficking. Upon
7 a violation of paragraph (2) or (3), a person is not eligible for
8 release upon completion of sentence, on probation, on parole, on
9 work furlough or work release, or on any other basis until he or
10 she has served a period of not less than 24 continuous hours in a
11 county jail. In all cases in which probation is granted, the court
12 shall require as a condition of probation that the person be
13 confined in a county jail for at least 24 hours. The court shall
14 order that a person punished under this subdivision, who is to be
15 punished by imprisonment in the county jail, be imprisoned on
16 days other than days of regular employment of the person, as
17 determined by the court. If the court determines that 24 hours of
18 continuous imprisonment would interfere with the person's work
19 schedule, the court shall allow the person to serve the
20 imprisonment whenever the person is normally scheduled for time
21 off from work. The court may make this determination based upon
22 a representation from the defendant's attorney or upon an affidavit
23 or testimony from the defendant.

24 (6) If a defendant violates paragraph (3) and knew or should
25 have known that the person who was solicited was a minor at the
26 time of the offense, or if a defendant violates paragraph (2) and
27 the person who was solicited was a person posing as a minor and
28 the defendant had specific intent to solicit a minor, the violation
29 is punishable by imprisonment in a county jail for not less than
30 72 hours and not more than one year and by a fine not less than
31 one thousand dollars (\$1,000) but not exceeding ten thousand
32 dollars (\$10,000). The fine imposed shall be deposited in the
33 treasury of the county in which the offense occurred and used by
34 the county to fund services for victims of human trafficking. Upon
35 a violation of this paragraph, a person is not eligible for release
36 upon completion of sentence, on probation, on parole, on work
37 furlough or work release, or on any other basis until he or she has
38 served a period of not less than 48 continuous hours in a county
39 jail. In all cases in which probation is granted, the court shall
40 require as a condition of probation that the person be confined in

1 a county jail for at least 48 hours. The court shall order that a
2 person punished under this paragraph, who is to be punished by
3 imprisonment in the county jail, be imprisoned on days other than
4 days of regular employment of the person, as determined by the
5 court. If the court determines that 48 hours of continuous
6 imprisonment would interfere with the person's work schedule,
7 the court shall allow the person to serve the imprisonment
8 whenever the person is normally scheduled for time off from work.
9 The court may make this determination based upon a
10 representation from the defendant's attorney or upon an affidavit
11 or testimony from the defendant.

12 (7) This subdivision does not prohibit prosecution under any
13 other law.

14 (8) Notwithstanding paragraphs (1) to (3), inclusive, this
15 subdivision does not apply to a child under 18 years of age who
16 is alleged to have engaged in conduct to receive money or other
17 consideration that would, if committed by an adult, violate this
18 subdivision. A commercially exploited child under this paragraph
19 may be adjudged a dependent child of the court pursuant to
20 paragraph (2) of subdivision (b) of Section 300 of the Welfare and
21 Institutions Code and may be taken into temporary custody
22 pursuant to subdivision (a) of Section 305 of the Welfare and
23 Institutions Code, if the conditions allowing temporary custody
24 without warrant are met.

25 (c) Who accosts other persons in any public place or in any
26 place open to the public for the purpose of begging or soliciting
27 alms.

28 (d) Who loiters in or about any toilet open to the public for the
29 purpose of engaging in or soliciting any lewd or lascivious or any
30 unlawful act.

31 (e) Who lodges in any building, structure, vehicle, or place,
32 whether public or private, without the permission of the owner or
33 person entitled to the possession or in control of it.

34 (f) Who is found in any public place under the influence of
35 intoxicating liquor, any drug, controlled substance, toluene, or any
36 combination of any intoxicating liquor, drug, controlled substance,
37 or toluene, in a condition that he or she is unable to exercise care
38 for his or her own safety or the safety of others, or by reason of
39 his or her being under the influence of intoxicating liquor, any
40 drug, controlled substance, toluene, or any combination of any

1 intoxicating liquor, drug, or toluene, interferes with or obstructs
2 or prevents the free use of any street, sidewalk, or other public
3 way.

4 (g) ~~When~~*If* a person has violated subdivision (f), a peace officer,
5 if he or she is reasonably able to do so, shall place the person, or
6 cause him or her to be placed, in civil protective custody. The
7 person shall be taken to a facility, designated pursuant to Section
8 5170 of the Welfare and Institutions Code, for the 72-hour
9 treatment and evaluation of inebriates. A peace officer may place
10 a person in civil protective custody with that kind and degree of
11 force ~~which~~*that* would be lawful were he or she effecting an arrest
12 for a misdemeanor without a warrant. A person who has been
13 placed in civil protective custody shall not thereafter be subject to
14 any criminal prosecution or juvenile court proceeding based on
15 the facts giving rise to this placement. This subdivision ~~shall~~*does*
16 not apply to the following persons:

17 (1) ~~Any~~*A* person who is under the influence of any drug, or
18 under the combined influence of intoxicating liquor and any drug.

19 (2) ~~Any~~*A* person who a peace officer has probable cause to
20 believe has committed any felony, or who has committed any
21 misdemeanor in addition to subdivision (f).

22 (3) ~~Any~~*A* person who a peace officer in good faith believes
23 will attempt escape or will be unreasonably difficult for medical
24 personnel to control.

25 (h) Who loiters, prowls, or wanders upon the private property
26 of another, at any time, without visible or lawful business with the
27 owner or occupant. As used in this subdivision, “loiter” means to
28 delay or linger without a lawful purpose for being on the property
29 and for the purpose of committing a crime as opportunity may be
30 discovered.

31 (i) Who, while loitering, prowling, or wandering upon the private
32 property of another, at any time, peeks in the door or window of
33 any inhabited building or structure, without visible or lawful
34 business with the owner or occupant.

35 (j) (1) ~~Any~~*A* person who looks through a hole or opening, into,
36 or otherwise views, by means of any instrumentality, including,
37 but not limited to, a periscope, telescope, binoculars, camera,
38 motion picture camera, camcorder, or mobile phone, the interior
39 of a bedroom, bathroom, changing room, fitting room, dressing
40 room, or tanning booth, or the interior of any other area in which

1 the occupant has a reasonable expectation of privacy, with the
2 intent to invade the privacy of a person or persons inside. This
3 subdivision ~~shall~~ *does* not apply to those areas of a private business
4 used to count currency or other negotiable instruments.

5 (2) ~~Any~~ A person who uses a concealed camcorder, motion
6 picture camera, or photographic camera of any type, to secretly
7 videotape, film, photograph, or record by electronic means, another,
8 identifiable person under or through the clothing being worn by
9 that other person, for the purpose of viewing the body of, or the
10 undergarments worn by, that other person, without the consent or
11 knowledge of that other person, with the intent to arouse, appeal
12 to, or gratify the lust, passions, or sexual desires of that person and
13 invade the privacy of that other person, under circumstances in
14 which the other person has a reasonable expectation of privacy.

15 (3) (A) ~~Any~~ A person who uses a concealed camcorder, motion
16 picture camera, or photographic camera of any type, to secretly
17 videotape, film, photograph, or record by electronic means, another,
18 identifiable person who may be in a state of full or partial undress,
19 for the purpose of viewing the body of, or the undergarments worn
20 by, that other person, without the consent or knowledge of that
21 other person, in the interior of a bedroom, bathroom, changing
22 room, fitting room, dressing room, or tanning booth, or the interior
23 of any other area in which that other person has a reasonable
24 expectation of privacy, with the intent to invade the privacy of that
25 other person.

26 (B) Neither of the following is a defense to the crime specified
27 in this paragraph:

28 (i) The defendant was a cohabitant, landlord, tenant, cotenant,
29 employer, employee, or business partner or associate of the victim,
30 or an agent of any of these.

31 (ii) The victim was not in a state of full or partial undress.

32 (4) (A) ~~Any~~ A person who intentionally distributes the image
33 of the intimate body part or parts of another identifiable person,
34 or an image of the person depicted engaged in an act of sexual
35 intercourse, sodomy, oral copulation, sexual penetration, or an
36 image of masturbation by the person depicted or in which the
37 person depicted participates, under circumstances in which the
38 persons agree or understand that the image shall remain private,
39 the person distributing the image knows or should know that

1 distribution of the image will cause serious emotional distress, and
2 the person depicted suffers that distress.

3 (B) A person intentionally distributes an image described in
4 subparagraph (A) when he or she personally distributes the image,
5 or arranges, specifically requests, or intentionally causes another
6 person to distribute that image.

7 (C) As used in this paragraph, “intimate body part” means any
8 portion of the genitals, the anus and in the case of a female, also
9 includes any portion of the breasts below the top of the areola, that
10 is either uncovered or clearly visible through clothing.

11 (D) It shall not be a violation of this paragraph to distribute an
12 image described in subparagraph (A) if any of the following
13 applies:

14 (i) The distribution is made in the course of reporting an
15 unlawful activity.

16 (ii) The distribution is made in compliance with a subpoena or
17 other court order for use in a legal proceeding.

18 (iii) The distribution is made in the course of a lawful public
19 proceeding.

20 (5) This subdivision ~~shall~~ *does* not preclude punishment under
21 any section of law providing for greater punishment.

22 ~~(k) In any accusatory pleading charging a violation of~~
23 ~~subdivision (b), if the defendant has been once previously convicted~~
24 ~~of a violation of that subdivision, the previous conviction shall be~~
25 ~~charged in the accusatory pleading. If the previous conviction is~~
26 ~~found to be true by the jury, upon a jury trial, or by the court, upon~~
27 ~~a court trial, or is admitted by the defendant, the defendant shall~~
28 ~~be imprisoned in a county jail for a period of not less than 45 days~~
29 ~~and shall not be eligible for release upon completion of sentence,~~
30 ~~on probation, on parole, on work furlough or work release, or on~~
31 ~~any other basis until he or she has served a period of not less than~~
32 ~~45 days in a county jail. In all cases in which probation is granted,~~
33 ~~the court shall require as a condition thereof that the person be~~
34 ~~confined in a county jail for at least 45 days. In no event does the~~
35 ~~court have the power to absolve a person who violates this~~
36 ~~subdivision from the obligation of spending at least 45 days in~~
37 ~~confinement in a county jail.~~

38 ~~In any accusatory pleading charging a violation of subdivision~~
39 ~~(b), if the defendant has been previously convicted two or more~~
40 ~~times of a violation of that subdivision, each of these previous~~

1 ~~convictions shall be charged in the accusatory pleading. If two or~~
2 ~~more of these previous convictions are found to be true by the jury,~~
3 ~~upon a jury trial, or by the court, upon a court trial, or are admitted~~
4 ~~by the defendant, the defendant shall be imprisoned in a county~~
5 ~~jail for a period of not less than 90 days and shall not be eligible~~
6 ~~for release upon completion of sentence, on probation, on parole,~~
7 ~~on work furlough or work release, or on any other basis until he~~
8 ~~or she has served a period of not less than 90 days in a county jail.~~
9 ~~In all cases in which probation is granted, the court shall require~~
10 ~~as a condition thereof that the person be confined in a county jail~~
11 ~~for at least 90 days. In no event does the court have the power to~~
12 ~~absolve a person who violates this subdivision from the obligation~~
13 ~~of spending at least 90 days in confinement in a county jail.~~

14 ~~In~~

15 *(k)* In addition to any punishment prescribed by this section, a
16 court may suspend, for not more than 30 days, the privilege of the
17 person to operate a motor vehicle pursuant to Section 13201.5 of
18 the Vehicle Code for any violation of subdivision (b) that was
19 committed within 1,000 feet of a private residence and with the
20 use of a vehicle. In lieu of the suspension, the court may order a
21 person's privilege to operate a motor vehicle restricted, for not
22 more than six months, to necessary travel to and from the person's
23 place of employment or education. If driving a motor vehicle is
24 necessary to perform the duties of the person's employment, the
25 court may also allow the person to drive in that person's scope of
26 employment.

27 *(l)* (1) A second or subsequent violation of subdivision (j) is
28 punishable by imprisonment in a county jail not exceeding one
29 year, or by a fine not exceeding two thousand dollars (\$2,000), or
30 by both that fine and imprisonment.

31 (2) If the victim of a violation of subdivision (j) was a minor at
32 the time of the offense, the violation is punishable by imprisonment
33 in a county jail not exceeding one year, or by a fine not exceeding
34 two thousand dollars (\$2,000), or by both that fine and
35 imprisonment.

36 ~~(m) (1) If a crime is committed in violation of subdivision (b)~~
37 ~~and the person who was solicited was a minor at the time of the~~
38 ~~offense, and if the defendant knew or should have known that the~~
39 ~~person who was solicited was a minor at the time of the offense,~~
40 ~~the violation is punishable by imprisonment in a county jail for~~

1 not less than two days and not more than one year, or by a fine not
2 exceeding ten thousand dollars (\$10,000), or by both that fine and
3 imprisonment.

4 ~~(2) The court may, in unusual cases, when the interests of justice~~
5 ~~are best served, reduce or eliminate the mandatory two days of~~
6 ~~imprisonment in a county jail required by this subdivision. If the~~
7 ~~court reduces or eliminates the mandatory two days' imprisonment,~~
8 ~~the court shall specify the reason on the record.~~

9 *SEC. 2. (a) Section 1.1 of this bill incorporates amendments*
10 *to Section 647 of the Penal Code proposed by both this bill and*
11 *Senate Bill 420. It shall only become operative if (1) both bills are*
12 *enacted and become effective on or before January 1, 2017, (2)*
13 *each bill amends Section 647 of the Penal Code, and (3) Senate*
14 *Bill 1322 and Assembly Bill 1708 are not enacted or as enacted*
15 *do not amend that section, and (4) this bill is enacted after Senate*
16 *Bill 420, in which case Sections 1, 1.2, 1.3, 1.4, 1.5, 1.6, and 1.7*
17 *of this bill shall not become operative.*

18 *(b) Section 1.2 of this bill incorporates amendments to Section*
19 *647 of the Penal Code proposed by both this bill and Senate Bill*
20 *1322. It shall only become operative if (1) both bills are enacted*
21 *and become effective on or before January 1, 2017, (2) each bill*
22 *amends Section 647 of the Penal Code, (3) Senate Bill 420 and*
23 *Assembly Bill 1708 are not enacted or as enacted do not amend*
24 *that section, and (4) this bill is enacted after Senate Bill 1322, in*
25 *which case Sections 1, 1.1, 1.3, 1.4, 1.5, 1.6, and 1.7 of this bill*
26 *shall not become operative.*

27 *(c) Section 1.3 of this bill incorporates amendments to Section*
28 *647 of the Penal Code proposed by both this bill and Assembly*
29 *Bill 1708. It shall only become operative if (1) both bills are*
30 *enacted and become effective on or before January 1, 2017, (2)*
31 *each bill amends Section 647 of the Penal Code, (3) Senate Bill*
32 *420 and Senate Bill 1322 are not enacted or as enacted do not*
33 *amend that section, and (4) this bill is enacted after Assembly Bill*
34 *1708, in which case Sections 1, 1.1, 1.2, 1.4, 1.5, 1.6, and 1.7 of*
35 *this bill shall not become operative.*

36 *(d) Section 1.4 of this bill incorporates amendments to Section*
37 *647 of the Penal Code proposed by this bill, Senate Bill 420, and*
38 *Senate Bill 1322. It shall only become operative if (1) all three*
39 *bills are enacted and become effective on or before January 1,*
40 *2017, (2) all three bills amend Section 647 of the Penal Code, (3)*

1 *Assembly Bill 1708 is not enacted or as enacted does not amend*
2 *that section, and (4) this bill is enacted after Senate Bill 420 and*
3 *Senate Bill 1322, in which case Sections 1, 1.1, 1.2, 1.3, 1.5, 1.6,*
4 *and 1.7 of this bill shall not become operative.*

5 *(e) Section 1.5 of this bill incorporates amendments to Section*
6 *647 of the Penal Code proposed by this bill, Senate Bill 420, and*
7 *Assembly Bill 1708. It shall only become operative if (1) all three*
8 *bills are enacted and become effective on or before January 1,*
9 *2017, (2) all three bills amend Section 647 of the Penal Code, (3)*
10 *Senate Bill 1322 is not enacted or as enacted does not amend that*
11 *section, and (4) this bill is enacted after Senate Bill 420 and*
12 *Assembly Bill 1708, in which case Sections 1, 1.1, 1.2, 1.3, 1.4,*
13 *1.6, and 1.7 of this bill shall not become operative.*

14 *(f) Section 1.6 of this bill incorporates amendments to Section*
15 *647 of the Penal Code proposed by this bill, Senate Bill 1322, and*
16 *Assembly Bill 1708. It shall only become operative if (1) all three*
17 *bills are enacted and become effective on or before January 1,*
18 *2017, (2) all three bills amend Section 647 of the Penal Code, (3)*
19 *Senate Bill 420 is not enacted or as enacted does not amend that*
20 *section, and (4) this bill is enacted after Senate Bill 1322 and*
21 *Assembly Bill 1708, in which case Sections 1, 1.1, 1.2, 1.3, 1.4,*
22 *1.5, and 1.7 of this bill shall not become operative.*

23 *(g) Section 1.7 of this bill incorporates amendments to Section*
24 *647 of the Penal Code proposed by this bill, Senate Bill 420, Senate*
25 *Bill 1322, and Assembly Bill 1708. It shall only become operative*
26 *if (1) all four bills are enacted and become effective on or before*
27 *January 1, 2017, (2) all four bills amend Section 647 of the Penal*
28 *Code, and (3) this bill is enacted after Senate Bill 420, Senate Bill*
29 *1322, and Assembly Bill 1708, in which case Sections 1, 1.1, 1.2,*
30 *1.3, 1.4, 1.5, and 1.6 of this bill shall not become operative.*